THIRTY – SEVENTH REPORT

STANDING COMMITTEE ON URBAN AND RURAL DEVELOPMENT (2002)

(THIRTEENTH LOK SABHA)

MINISTRY OF RURAL DEVELOPMENT

(DEPARTMENT OF RURAL DEVELOPMENT)

Implementation of Part IX of the Constitution

Presented to Lok Sabha on 26.8.2002
Laid in Rajya Sabha on 20.11.2002

LOK SABHA SECRETARIAT
NEW DELHI

August, 2002/Sravana, 1924 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON
URBAN AND RURAL DEVELOPMENT (2002)

Shri Anandrao Vithoba Adsul - *Chairman*

MEMBERS

LOK SABHA

2. Shri Mani Shankar Aiyar
3. Shri Ranen Barman
4. Shri Padmanava Behera
5. Shri Jaswant Singh Bishnoi
6. Shri Haribhai Chaudhary
7. Shri Shriram Chauhan
8. Shri Shamsher Singh Dullo
9. Shrimati Hema Gamang
10. Shri G. Putta Swamy Gowda
11. Shri Basavanagoud Kolur
12. Shri Shrichand Kriplani
13. Shri Bir Singh Mahato
14. Shri Savshibhai Makwana
15. Dr. Laxminarayan Pandey
16. Shri Sukdeo Paswan
17. Shri Chandresh Patel
18. Shri Laxmanrao Patil
19. Prof. (Shrimati) A.K. Premajam
20. Shri Rajesh Ranjan
21. Shri Gutha Sukender Reddy
22. Shri Pyare Lal Sankhwar
23. Shri Nikhilananda Sar
24. Shri Maheshwar Singh
25. Shri D.C. Srikantappa
26. Shri V.M. Sudheeran
27. Shri Chinmayanand Swami
28. Shri Ravi Prakash Verma
29. Shri D. Venugopal
30. Shri Dinesh Chandra Yadav

Appointed w.e.f. 18.07.2002 *vice* Shri Anant Gangaram Geete ceased to be a member of the Committee on his appointment as Minister.

RAJYA SABHA

31. Shri S. Agniraj
32. Shrimati Shabana Azmi
33. Shrimati Prema Cariappa
34. Shri N.R. Dasari
35. Shri H.K. Javare Gowda
36. Shri Ramadhar Kashyap
37. Shri Faqir Chand Mullana
38. Shri A. Vijaya Raghavan
39. Shri Rumandla Ramachandraiah
40. Shri Nabam Rebia
41. Shri Man Mohan Samal
* 42. Shri Sunil Shastri
43. Shrimati Maya Singh
44. Shri G.K. Vasan
45. Vacant

SECRETARIAT

1. Shri P.D.T. Achary	-	Additional Secretary
2. Shri S.C. Rastogi	-	Joint Secretary
3. Shri K. Chakraborty	-	Deputy Secretary
4. Shrimati Sudesh Luthra	-	Under Secretary

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* Nominated w.e.f. 2.8.2002.

COMMITTEE ON URBAN AND RURAL DEVELOPMENT

Sub-Committee I to examine the subject 'Implementation of Part IX of the Constitution

1. Shri Anandrao Vithoba Adsul - ***Chairman***
2. Shri Chinmayanand Swami - ***Convener***
3. Shri Mani Shankar Aiyar - ***Alternate Convener***

MEMBERS

LOK SABHA

4. Shri Shriram Chauhan
5. Shri Shamsher Singh Dullo
6. Shrimati Hema Gamang
7. Shri Basavanagoud Kolur
8. Shri Savshibhai Makwana
9. Dr. Laxminarayan Pandey
10. Shri Laxmanrao Patil
11. Shri Gutha Sukender Reddy
12. Shri Nikhilananda Sar
13. Shri Maheshwar Singh
14. Shri V.M. Sudheeran
15. Shri D. Venugopal
16. Shri Dinesh Chandra Yadav

RAJYA SABHA

17. Shri S. Agniraj
18. Shri N.R. Dasari
19. Shri Ramadhar Kashyap
20. Shri A. Vijaya Raghavan

#Appointed w.e.f. 18.07.2002 *vice* Shri Anant Gangaram Geete ceased to be a member of the Committee on his appointment as Minister.

ABBREVIATIONS

CAPART	-	Council for People's Advancement and Rural Technology
DP	-	District Panchayat
DPC	-	District Planning Committee
DRDA	-	District Rural Development Agency
EAS	-	Employment Assurance Scheme
GP	-	Gram Panchayat
JGSY	-	Jawahar Gram Swarojgar Yojana
MCD	-	Municipal Council of Delhi
MFP	-	Minor Forest Produce
MPTC	-	Mandal Parishad Territorial Committee
NCT	-	National Capital Territory
NGO	-	Non-Governmental Organisation
NIRD	-	National Institute of Rural Development
PESA	-	Panchayat (Extension to Scheduled Areas) Act
PIL	-	Public Interest Litigation
PR ACT	-	Panchayati Raj Act
PRIs	-	Panchayati Raj Institutions
SEC	-	State Election Commission
SFC	-	State Finance Commission
SGHs	-	Self Help Groups
SGRY	-	Sampoorna Grameen Rozgar Yojana
UT	-	Union territory
WP	-	Writ Petition
ZP	-	Zila Parishad
ZPTC	-	Zila Parishad Territorial Committee

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INTRODUCTION

I, the Chairman of the Standing Committee on Urban and Rural Development, (2002) having been authorised by the Committee to submit the Report on their behalf, present the Thirty-seventh Report on the subject 'Implementation of Part IX of the Constitution'.

2. The Committee during their course of examination of Demands for Grants of previous years have found that ever since the year 1993 when the Constitution (Seventy-third Amendment) Act, 1992 came into force, States are yet to endow the Panchayats with the requisite powers and authority to enable them to function as institutions of self-Government in the true sprit of Part IX of the Constitution. Not only that, few of the Centrally sponsored schemes are being implemented by the Panchayats. In this scenario, the Committee (1999-2000) selected the said subject for examination and Report to Parliament. Before the Committee could take up the subject, their term expired. Subsequently, the Committee (2001) took up the same subject and a sub-Committee was constituted to examine the subject. The said sub-Committee invited memoranda from various experts. Around 33 memoranda were received from various experts, individuals, etc. The sub-Committee conducted a study visit to Hyderabad on 17th and 18th November, 2001 and held informal discussions with the representatives of State Governments, Panchayati Raj Institutions of the States of Andhra Pradesh, Kerala, Karnataka and Tamil Nadu and experts on the subject. They also heard the views of some of the experts from Delhi and Dehradun on 3rd December, 2001 at New Delhi. A list of the experts/individuals whose considered views were heard by the sub-Committee has been given in Appendix XVIII. The sub-Committee then took oral evidence of the representatives of the Ministry of Rural Development (Department of Rural Development) on 20th December, 2001. Before the said sub-Committee could submit their draft Report to the main Committee, the term of the Committee (2001) expired on 31st December, 2001.

3. The Committee (2002) again took up the said subject and decided to take up the examination from the stage the earlier Committee had left. Accordingly, the sub-Committee – I was constituted to further examine the subject.

4. The sub-Committee at their sitting held on 7th August, 2002 considered and approved the Report. The Committee at their sitting held on 9th August, 2002, considered and adopted the Report.

5. The Committee place on record their deep appreciation of the work done by the earlier Committees/sub-Committees, i.e. Committee (1999-2000), Committee (2001) and sub-Committee – I (2001). The Committee specifically thank sub-Committee – I of the Committee (2002) who prepared such a valuable and objective Report.

6. The Committee wish to express their thanks also to the officers of the Ministry of Rural Development, who appeared before the Committee and placed their considered views. They also wish to thank the said Ministry for furnishing the requisite material on the points raised by the Committee in connection with the examination of the subject.

7. The Committee are also benefitted from the views of representatives of State Governments/Panchayati Raj Institutions of the States of Andhra Pradesh, Kerala, Karnataka and Tamil Nadu, who appeared before the sub-Committee in Hyderabad.

Besides, they were also benefitted by the suggestions given by various experts and individuals who appeared before the sub-Committee in Hyderabad and Delhi. They express their thanks to the representatives of the said State Governments and experts/individuals who furnished memoranda and/or tendered evidence before the sub-Committee as mentioned in para 2 above.

8. The Committee would like to place on record their sense of deep appreciation for the invaluable assistance rendered by the officials of Lok Sabha Secretariat attached to the Committee.

NEW DELHI
14 August, 2002
23 Sravana, 1924

ANANDRAO VITHOBA ADSUL
Chairman
Standing Committee on Urban and Rural Development

REPORT

CHAPTER- I

INTRODUCTORY

Panchayats have been a vibrant and dynamic identity of the Indian villages since the beginning of recorded history. Experts believe that the concept of self-governance existed during Rig Vedic period (around 1200 BC). There were "Village Sabhas" and *Gramins* (Assemblies of Village elders) who took interest in the welfare of villages. The system of Panchayati Raj is thus deeply rooted in our tradition. From time immemorial this system has exercised powers, both executive and judicial. With a view to make this institution as part and parcel of self governance, the Fathers of our Constitution rightly incorporated article 40 in the Constitution which says "the State shall take steps to organise village panchayats and endow them with such powers and authorities as may be necessary to enable them to function as units of self-government." It is, however, a pity that a system which is rooted in antiquity and inspired and invigorated the self-government of villages for centuries together, lost its autonomy in course of time. After independence, efforts were made by the States to introduce Panchayati Raj system. Despite these efforts, these institutions could not acquire the status and dignity of viable and responsive people's bodies due to a variety of reasons including absence of regular elections, prolonged suppression, inadequate representation of weaker sections like Scheduled Castes, Scheduled Tribes and women, insufficient devolution of power and lack of financial resources. To give a boost to the system and to ensure its effective functioning, it became necessary to amend the Constitution. The Constitution (Seventy-third Amendment) Act, 1992 *(Appendix-I)* that came into force *w.e.f.* 24th April, 1993 conferred constitutional status to Panchayats and established Panchayats at grassroots level as `institutions of self-government' from the village upwards. It was considered by the experts "that there is an imperative need to enshrine in the Constitution certain basic and essential features of PRI to impart certainty, continuity and strength"

1.2 The Constitution (Seventy-third Amendment) Act, 1992 provides for:

- Establishment of a three-tier structure (Village Panchayat, Panchayat Samiti or Intermediate level Panchayat and Zila Parishad or District level Panchayat).
- Gram Sabhas at the Gram Panchayat level.
- Regular elections to Panchayats every five years.
- Proportionate reservation of seats and posts for SCs/STs.
- Reservation of not less than 1/3rd of seats and posts for women.
- Constitution of State Finance Commission (SFC) to recommend measures to improve the finances of Panchayats.
- Constitution of State Election Commissions (SEC).

1.3 Subsequently, the "Provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996" was passed by the Parliament to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Schedule V areas, which

came in to force with effect from 24th December, 1996. This Act extends Panchayats to the tribal areas of States such as Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chhattisgarh, Orissa and Rajasthan.

1.4 The responsibility of implementation of all matters relating to Panchayati Raj has been given to the Ministry of Rural Development (Department of Rural Development). The Committee during their course of examination of Demands for Grants of previous years in respect of the said Department have found that inspite of lapse of about nine years since Part IX of the Constitution came into force, States are yet to endow the Panchayats with the requisite powers and authority to enable them to function as institutions of self-government in the true spirit of Part IX of the Constitution. Not only that, few of the Centrally Sponsored Schemes are being implemented by the Panchayats. In this scenario, the Committee took up for examination the subject 'Implementation of Part IX of the Constitution'. The Committee have made a profound study of the various aspects involved in the proper and timely implementation of Part IX of the Constitution. In this regard, various suggestions/recommendations have been made by them in the succeeding paragraphs of the Report.

1.5 In the present Report, the Committee have restricted their examination to the main articles of Part IX of the Constitution. Besides, article 243ZD relates to constitution of District Planning Committees to consolidate the plans prepared by the Panchayats and Municipalities. Since this article is common to both Panchayats and Municipalities, the Committee have examined the said article in the present Report in relation to Panchayats only.

CHAPTER II

OVERALL VIEW OF IMPLEMENTATION OF PART IX

(a) Provisions of Part IX of the Constitution

With the enactment of the Constitution (Seventy-third Amendment) Act, 1992, Constitutional status has been provided to the Panchayati Raj Institutions paving the way for a new era in grassroots democracy. However, due to various exigencies, all the provisions enshrined in Part IX of the Constitution could not be made mandatory. Before discussing the actual scenario regarding the implementation of this Act, a brief overview of the mandatory/recommendatory provisions contained in Part IX of the Constitution is given below:

2.2 As per the written replies forwarded to the Committee, the following provisions of Part IX of the Constitution are recommendatory in nature:

243A. Gram Sabha - A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

243C. (3) – Composition of Panchayats – The Legislature of a State may, by law, provide for the representation-

(a) of the Chairperson of the Panchayats at the village level in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within-

(i) Panchayat area at the intermediate level, in Panchayat at the intermediate level;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

243C.(5) The Chairperson of –

(a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide;

243D. Reservation of seats –

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

243G. Powers, authority and responsibilities of Panchayats – Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the

devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to-

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice, as may be entrusted to them, including those in relation to the matters listed in the Eleventh Schedule.

243H. Powers to impose taxes by, and Funds of, the Panchayats – The Legislature of a State may, by law, -

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all monies received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

243I. Constitution of Finance Commission to review financial position -

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

243J. Audit of accounts of Panchayats – The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

243K. Elections to the Panchayats –

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provisions with respect to all matters relating to, or in connection with, elections to the Panchayats.

2.3 The mandatory provisions of the Constitution (73rd Amendment) Act, 1992 are as follows:

243B. Constitution of Panchayats—

(1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part;

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayats –

(1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats;

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, as far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial consituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of –

(a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. Reservation of seats –

(1) Seats shall be reserved for –

(a) the Scheduled Castes; and

(b) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes is that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or; as the case may be, the Scheduled Tribes;

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat;

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall hear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the scheduled Tribes in the State bears to the total population of the State.

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women.

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

243E. Duration of Panchayats etc.

(1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

243 F. Disqualification for membership – (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat-

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243I. Constitution of Finance Commission to review financial position

(1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to-

(a) the principles which should govern-

(*i*) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(4) The Governor shall cause every recommendation made by the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

243K. Elections to the Panchayats - (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of the State Election Commissioner shall be such as the Governor may by rule determine;

Provided that the State Election Commission shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

243L. Application to Union territories - The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243M. Part not to apply to certain areas – (1) Nothing in this Part shall apply to the scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall apply to-

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the hill areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part –

(a) relating to Panchayats at the district level shall apply to the hilly areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gurkha Hill Council exists under any law for the time being in force;

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

(3) Notwithstanding anything in this Constitution,-

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law, extend this part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution in that effect by a majority of the total membership of that House and

by a majority of not less than two-thirds of the members of that House present and voting;

(*b*) Parliament by, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243N. Continuance of existing laws and Panchayats – Notwithstanding anything in this Part, any provisions of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier.

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243 0. Bar to interference by courts in electoral matters – Notwithstanding anything in this Constitution, -

(a) the validity of any law relating to the delimitation of consituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243 K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Neither recommendatory nor mandatory:

As per the written information forwarded to the Committee, the article 243 which provides the definitions of the terms/specific words used in the Part IX of the Constitution is neither recommendatory nor mandatory in nature.

(b) Enactment of the State Panchayati Raj Acts

2.4 As per the information provided by the Department, all the States/Union territories except the States where exemption from Part IX has been provided have enacted their respective Panchayati Raj Acts.

2.5 The States where exemption from Part IX is provided are as below:-

(i) The Constitution (Seventy-third Amendment) Act 1992 is not applicable to the States of Nagaland, Meghalaya and Mizoram and the hill areas in the State of Manipur and the hill areas of the District of Darjeeling in the State of West Bengal.

(ii) The provisions of the Act can be made applicable to the State of Jammu and Kashmir (J&K) only on adoption of the provisions by the State Legislature. As per the Constitution (Application to J&K) Order, 1954, necessary orders of the President are to be issued under article 371 of the Constitution so as to make the Constitution (Seventy-third Amendment) Act, 1992 applicable to the State of J&K. The Ministry of Home Affairs requested the Government of J&K to have the concurrence of the State Legislature for the applicability of Part IX of the Constitution. However, J&K Government have decided not to extend the Constitution (Seventy-third Amendment) Act, 1992 to that State, instead, certain provisions of Constitution (Seventy-third Amendment) Act, 1992 will be incorporated in their Panchayati Raj Act.

(iii) National Capital Territory (NCT) of Delhi had repealed the Panchayati Raj Act and sought abolition of Panchayati Raj system. Of late, it is now actively considering adopting the Constitution (Seventy-third Amendment) Act and reviving the Panchayats. The Panchayati Raj Institutions have ceased to exist in Delhi from 25th December, 1989. The Delhi Government have indicated during review meetings that most of the rural areas of Delhi are covered by the Delhi Municipal Act and most of the villages are surrounded by the Municipal Corporation of Delhi (MCD) areas and as such, it was felt that there was no end for parallel bodies of Panchayats and Municipalities. The Ministry of Home Affairs did not support the decision to suspend the Delhi Panchayati Raj Act.

(c) <u>Status of Panchayat elections in various States</u>

2.6 Article 243E which relates to duration of Panchayats, etc. provides for the following:

"(1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Panchayat shall be completed --

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution;

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayats for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the

period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved."

2.7 However, as per the information furnished by the Department, it can be inferred that there have been shocking violations with regard to holding of timely and regular elections to local bodies after every five years in the rural areas. The following paragraphs give a reflection of the actual state of affairs, obtaining in a few States.

States where Panchayat elections have not been held

2.8 One State and one Union territory have not held post Constitution (Seventy-third Amendment) Act, 1992, Panchayat elections till now, even after more than nine years of the commencement of the said Act. The status of elections to Panchayats there is indicated below:

(1) Arunachal Pradesh: Article 243D of the Constitution mandates the provision of reservation for Scheduled Castes. However, Arunachal Pradesh does not have indigenous population belonging to the Scheduled Castes and as such the State of Arunachal Pradesh decided not to make provisions for reservation of seats for the Scheduled Castes in the Arunachal Pradesh Panchayati Raj Bill, 1997. After due consideration, the Government of India accepted the point of view of the State of Arunachal Pradesh and decided to exempt the State from the requirement of making provisions in the Arunachal Pradesh Panchayati Raj Bill, 1997. Accordingly, the Constitution (Eighty-sixth Amendment) Bill, 1999 was introduced in the Rajya Sabha on 17th December, 1999. The said Bill was passed during the monsoon session 2000 thereby exempting Arunachal Pradesh to make provision for reservation for Scheduled Castes in Panchayats by amending article 243M (3) of the Constitution of India. The Arunachal Pradesh Panchayati Raj Act has since been passed and received the President's assent. However, elections are still to be scheduled.

(2) Pondicherry: When asked about the provisions with regard to reservation for backward classes in the Pondicherry Panchayati Raj Act which are sub-judice, the Government replied that the Division Bench of the Hon'ble High Court of Chennai while disposing off the four Writ Petitions including W.P. No. 13676/96 held that the flat rate reservation of 27% is not valid since identification and enumeration of Backward Classes have not yet been conducted in the Union territory of Pondicherry. The Hon'ble Court held that section 11(8) of the Pondicherry Village and Commune Panchayats Act, 1973 as amended by Act 4 of 1996, and the rules framed thereunder as well as the impugned notifications are unconstitutional and unenforceable.

2.9 In response to the request dated 25th January, 1999 of the Minister of Rural Development regarding holding of Panchayat Elections there, the Chief Minister of Union territory of Pondicherry *vide* his letter dated 30th March, 1999 informed that the Union territory administration had already notified 260 communities, as recommended in the Mandal Commission's report to be Backward Classes but enumeration was not done. The administration had appointed a Backward Classes Commission under the

Chairmanship of Mr. Justice J. Thangamani, a retired High Court judge, as a follow up of the judgement of the Supreme Court pronounced in the Mandal Commission's case. In view of this, the Union territory Administration had filed four Applications before the Division Bench of Hon'ble Chennai High Court seeking certain clarifications on their finding while disposing off the batch of four Writ Petitions relating to the conduct of civic elections. At the end the Chief Minister assured that after getting the required clarifications, the Panchayat elections would be held at the earliest. As per information received form the Ministry, on a similar issue pertaining to Tamil Nadu, the Hon'ble High Court at Chennai had passed Orders making it possible for Tamil Nadu Government to hold elections. The Ministry have advised the Union territory Administration to take appropriate action to hold Panchayat elections at the earliest on the same lines. It is reported that Panchayat election would be held by December, 2001. However, election has not been held till June 2002.

Panchayat Elections not held after the expiry of first term of Panchayat

2.10 As per article 243E of the Constitution, election to constitute a Panchayat has to be completed before the expiry of its duration i.e. five years after its first meeting or if dissolved earlier before the expiration of a period of six months from the date of its dissolution. However, after the expiry of the first term, the elections have been partially held/postponed/not held in various States/UTs. The detailed position in this regard is given in *Appendix-II*. Statement indicating the status of Panchayat elections in the country is given at *Appendix-III*.

2.11 The position in this regard is summarised in the replies furnished by the Department as given below.

> "On some pretext or the other, such as delimitation of constituency, law and order situation, natural calamities and pending court cases, the State Governments are not holding Panchayat elections before the expiry of the term of Panchayats. There is no mechanism left with the Central Government to force the holding of Parliament election in time."

2.12 The Supreme Court in its judgement dated 12th August 1997, in WP (Civil) No. 719 of 1995 observed as follows:

> "…. It is necessary to emphasise that various clauses of article 243 are to be followed in letter and spirit. The concerned States cannot be permitted to withhold election of Panchayats except in case of genuine supervening difficulties, e.g., unforeseen natural calamities in the State like flood, earthquake, etc., or urgent situation prevailing in the State for which election of the panchayat cannot be held in time. It will be unfortunate if the concerned States remain insensitive to the Constitutional mandate of holding election of Panchayats in time …."

2.13 The Department in the written note had submitted as below:-

> "Thus, the only valid ground for withholding Panchayat election after it has become due is some 'supervening difficulty', but difficulty has to be 'genuine'

in nature. In no case where the States withheld Panchayat elections during the post-73rd Amendment period, the difficulties cited by them could be regarded as 'genuine'. The case of Andhra Pradesh provides a good example whereby a particular Ordinance promulgated by the State Government citing various supervening difficulties for not holding elections to local bodies was ultimately quashed by the Supreme Court."

2.14 The controversy centered around the Ordinance No. 3 of 2000 dated 5th February, 2000 promulgated by the Government of Andhra Pradesh making transitional arrangements providing for appointment of Special Officers to carry out the administration of Mandal Parishads and Zila Parishads on expiry of their terms in March 2000 till ordinary elections were held for these local bodies. In response, a number of Writ Petitions were filed which included one by the State Election Commission as well challenging the said Ordinance which according to them was intended to defeat the Constitutional mandate as provided under article 243E of the Constitution of India.

2.15 The Government of Andhra Pradesh responded by drawing attention to the various supervening difficulties responsible for promulgating the said Ordinance, viz.,

(1) The offices of members of Mandal Parishads and Zila Parishads territorial constituencies are found to be superfluous hindering the smooth and effective functioning of the Panchayats. Consequent upon the 73rd Constitutional Amendment, the earlier three-tier system of Panchayats in the State was replaced by five-tier system. It was stated that on the basis of the experience gained from 1995 to 2000, the five-tier system of Panchayats was found to be not functioning on the expected lines making restructuring of the Panchayats a necessity;

(2) In this regard it was further indicated that the Andhra Pradesh Legislative Assembly passed a resolution in November 1999 urging the Union Government to amend article 243C of the Constitution which deals with the composition of Panchayats so as to give freedom to the State Legislatures either to opt for three tier system or five-tier system. Pursuant to this, Union of India introduced the Constitutional (Eighty-seventh Amendment) Bill in the Rajya Sabha which in effect restores the old three-tier system as requested by the Andhra Pradesh Assembly in place of the existing five-tier system. The said amendment was likely to be passed in the Budget Session of the Parliament and if elections to these bodies were held before that, several legal and practical problems would arise once the said amendment came into force.

(3) Avoidable huge burden on the State exchequer if elections to the Mandal and Zila Parishads were held under the then existing provisions of law.

After much legal wrangle, the Orders dated 27th April 2000 of the High Court of Andhra Pradesh in Writ Petitions Nos. 2481/2000 and seven other petitions, best upholds the spirit of the article 243E:

"…… Looking at the express provisions made under article 243E of the Constitution fixing the term of the local bodies for five years and no longer, there is no doubt in our mind to hold that the provisions under article 243E are

mandatory and not directory as contended by the learned Additional Advocate General appearing on behalf of the State of Andhra Pradesh….." Further, the observation of the Supreme Court in W.P. (Civil) No. 719 of 1995 concerning supervening difficulties were quoted (as mentioned earlier). It was observed that "…..the supervening difficulties pleaded by the State Government to postpone the elections to the Panchayati Raj bodies fall short of the 'genuine supervening difficulties' as described….." in the observations of the Supreme Court. "….The grounds urged by the Government for postponing the elections cannot stand the test of judicial scrutiny and we cannot accept them as 'genuine supervening difficulties'. Any legislative device of the Government which comes into direct conflict with the mandatory provisions of article 243E of the Constitution, such device has to be declared as ultra-vires of the said provisions of the Constitution. For all these reasons, we hold that Ordinance No. 3 of 2000 dated 5th February, 2000 issued by the Governor of Andhra Pradesh is devoid of merits and consequently we declare it as invalid."

(d) Constitutional position regarding Backward classes

2.16 The provision for reservation for Backward Classes has been made under article 243D (6) which is reproduced below:

> "243D (6). Nothing in this Part should prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or office of Chairperson in the Panchayats at any level in favour of Backward class of citizen".

The experts who appeared before the Committee opined that the rationale for reservation of seats for OBC is weak. Under the said article, an enabling provision has been made in any Panchayat or the offices of Chairperson in the Panchayat for Backward classes. Several States have found it difficult to determine who belong to an OBC and who does not belong to an OBC. There were court cases about the definition of OBC. According to experts this is the best excuse for postponing election for the Panchayats.

(e) Consolidation of judgement with regard to Part IX into a consistent body of jurisprudence

2.17 When the Committee wanted to know as to whether the Government ever considered requesting the Supreme Court to take up or the Supreme Court of its own volition has taken up consolidation of all the judgements that have so far come with regard to Part IX into a consistent body of jurisprudence to be used for interpretation of different articles of the Constitution, they were informed that at the time of hearing of Early Hearing Application filed by the Ministry of Rural Development in connection with SLP Nos. 9724-28 and 0910-25/96, the Hon'ble Supreme Court desired to submit a list of pending cases relating to Panchayati Raj Institutions. The Ministry submitted the following list of pending cases before the Apex Court.

2.18 The court cases relating to Panchayati Raj Systems pending in the Supreme Court are as under :

Sl. No.	SLP/WP No. and Petitioners/Respondents	Brief Particulars of Petition
1.	SLP/WP No.9724-28 and 9819-25 of 96 State of Bihar and ors.-vs- Krishna Kr. Mishra and Ors.	Against the Orders dated 19.3.1996 of Patna High Court in CWJC NO.3351/94 and analogous cases striking down certain provision of State PR Act relating to reservation of SC/STs/OBCs/Women in Panchayats and Gram Kachhery.
2.	SLP/WP No.9854/96 State of Bihar and ors.-vs- Basudeo Besra and Petitioners/ Respondents	Against the Orders dated 22.12.1995 of Patna High Court in CWJC NO.8262/95 stating Bihar PR Act has no effect over Schedule - V Areas in the State.
3.	IA of 1998 in SLP Nos.9724-28 and 9819-25/96	Filed by Ministry of Rural Development for early hearing of SLP NO.9724-24 and 9819-25/96
4.	IA of 1999 in SLP Nos.9724-28 and 9819-25/96	Filed by Ministry of Rural Development seeking clarification regarding release of funds meant for Panchayats to State Officials.
5.	SLP No.4672-73/99 field by the Government of Karnataka	The Karnataka High Court directed the Govt. of Karnataka to hold Gram Panchayat elections which were postponed due to pending decision of delimitation of Gram Panchayats. The Supreme Court granted stay orders against that Order of High Court
6.	WP(C) NO.356/94 Dr. K. Krishna Kumar and ors.-vs-UOI	Challenging article 243 d(2) and (6) relating to reservation of seats in Panchayats.
7.	SLP No.4518/9 State of Andhra Pradesh	Vide Orders dated 23.5.95, the Supreme Court directed that since the impugned judgement related to the applicability of provision of Constitution (73rd Amendment) Act, 1992 to Scheduled Areas, State Election Commission would complete the process of election of Panchayats in non-Scheduled Areas in Andhra Pradesh

2.19 The Committee find that pursuant to the enactment of the Constitution (Eighty-sixth Amendment) Bill, 1999, the State of Arunachal Pradesh has been exempted from making any provision for reservation of seats for Scheduled Castes in Panchayats. Though more than two years have passed since Arunachal Pradesh Panchayati Raj Act was enacted, the Arunachal Pradesh Government is yet to hold elections for the Panchayats. They also find that in case of the NCT of Delhi, the Ministry of Home Affairs did not support the decision of Delhi Government to suspend Delhi Panchayati Raj Act. They are, however, happy to note that NCT of Delhi have recently been considering the revival of Panchayati Raj system in Delhi. In the case of Pondicherry, although it has been reported that Panchayat elections would be held by December 2001, elections have not been held so far as stated by the Ministry. The Committee, therefore, urge the Government to persuade the State of Arunachal Pradesh, NCT of Delhi and Pondicherry to hold Panchayati Raj elections at the earliest so that the system of grassroot level democracy could be established/revived without further delay.

2.20 The Committee find that several State Governments are not holding Panchayat elections before the expiry of the term of Panchayats, or postponing the same on one pretext or the other. Besides, the State Governments are frequently taking recourse to litigation on one ground or the other and thus postponing elections. The Committee find that holding of Panchayat elections is a mandatory provision in the Constitution and it is obligatory on the part of the State Government to ensure that the same is implemented in letter and spirit. It is also mandatory on the part of a State Government to hold elections to constitute the Panchayat before the expiry of its duration, i.e. five years from the date appointed for its first meeting. Article 243E (1) emphasises that no Panchayat will continue for longer than the specified period. Inspite of such clear and specific stipulations, the Committee find that there has been persistent flouting of such provisions by certain State Governments.

2.21 The Committee observe that the primary duty to ensure strict compliance of the mandatory provisions of Part IX of the Constitution and to persuade the State Governments to conform in letter and spirit to the recommendatory provisions, rests with the Union Government. But they are concerned that even the mandatory provisions of Part IX are not being strictly implemented by the respective State Governments leave aside the recommendatory provisions. Whereas the State Governments are willfully flouting the Constitutional provisions, the Union Ministry have expressed their helplessness in persuading the State Governments to hold the Panchayat election in time. The Committee therefore, strongly recommend that the Government must find out ways and means so that the provisions of Part IX of the Constitution are followed in letter and spirit.

2.22 The Committee find that so far as the question of reservation for Backward Classes in Panchayats is concerned, as per article 243D (6), the matter has been left to the discretion of the State Legislatures. As could be seen from the information furnished by the Department, the issue of reservation for Backward Classes has led to intensive litigations and is often used as an excuse for postponing elections to the Panchayats. Since the reservation for Backward classes is an enabling provision and State Legislatures are free to take their own decisions in this regard, the Committee recommend that the Government should bring the experiences of different States to the notice of all State Governments with a view to enable them to evolve suitable reservation system for the Backward classes which may enjoy a wide measure of consensus in the society, and should not come in the way of effective and timely implementation of Part IX.

2.23 The Committee note that article 243E nowhere provides for postponing of elections in any circumstances. They also note that in a leading judgment, the Supreme Court ruled that the concerned States cannot be permitted to withhold elections to Panchayats except in case of genuine supervening difficulties such as unforeseen natural calamities in the State like flood, earthquake etc. or urgent situation prevailing in the State for which elections to the Panchayat cannot be held in time. The Committee while going through the information provided by the

Department, find that the said ruling of the Supreme Court interpreting article 243E of the Constitution is being differently interpreted by the State Governments. The Committee are strongly of the view that since regular periodic elections, within the letter and spirit of the Constitutional provision lies at the very heart of the democratic process, the Central Government should secure a clear ruling from the Supreme Court about the meaning and scope of article 243E, so that elections are held within five years and jurisprudence clearly indicates the highly exceptional situations, if any, in which there may be a short postponement.

2.24 The Committee further feel that there is a need for harmonizing and clarifying the body of jurisprudence arising out of the relatively recent introduction of Part IX, since some court judgments appear prima facie not to be consistent with other judgments. It is urged that such a process of harmonization and clarification be undertaken by the authority or authorities concerned.

2.25 The Committee further note that most of the Central and State Acts need amendment in view of the powers conferred Constitutionally on the elected local bodies. They are of the view that the Central Government and the State Governments must establish appropriate review bodies to carefully examine the compatibility of pre-Part IX legislation with the new Constitutional provisions. This exercise needs to be undertaken urgently within a time-bound framework. Possibly, the Law Commission might be entrusted with the initial responsibility of identifying the categories of Central and State legislations, which need to be so examined and acted upon.

CHAPTER III

POWERS, AUTHORITY, FUNCTIONS AND RESPONSIBILITIES OF PANCHAYATS

(a) Devolution of functions and functionaries

Constitutional provision

Article 243G of the Constitution as reproduced below specifies the powers, authority, functions and responsibilities of Panchayats.

> "243G. Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to -
>
> (a) the preparation of plans for economic development and social justice;
>
> (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh schedule."

3.2 The 'matters' enlisted in the Eleventh Schedule are given at *Appendix - IV*.

Status of devolution of subjects in various States/Union territories

3.3 The position regarding matters enlisted in the Eleventh Schedule actually entrusted to Panchayati Raj Institutions (PRIs) in various States/Union territories has been given in *Appendix- V*.

It could be seen from the said Appendix that only one State i.e. Karnataka has transferred funds, functions and functionaries for all the 29 subjects enlisted in the Eleventh Schedule. Though Kerala, Rajasthan, Tamil Nadu, West Bengal and Daman & Diu have transferred 29 subjects to the Panchayats but they have not transferred the funds and functionaries of subjects entrusted to Panchayats. However, in several States/Union territories, the position of the subjects transferred to Panchayats *vis-a-vis* funds, functions and functionaries is nil.

Suggestions made by the experts on the issue of devolution of subjects to Panchayats

3.4 The sub-Committee of the Committee on Urban and Rural Development (2001) undertook a study visit to Hyderabad to interact with the representatives of State Governments, Local self Governments and Experts from Andhra Pradesh, Kerala, Tamil Nadu and Karnataka. With regard to the issue of devolution the views that emerged during the interaction are as below :-

(i) the corresponding devolution in respect of funds and functionaries was not done.

(ii) the bureaucracy was not willing to transfer the powers to the elected representatives.

(iii) all the Departments in various States dealing with the developmental activities like Irrigation, Agriculture etc. excepting the Revenue Department should be brought under Panchayat.

(iv) There should be an exclusive Union Ministry to look after the issues related to Panchayats.

3.5 Comments of the Department on the issues raised by the experts etc. are given below :

> "The Eleventh Schedule of the Constitution listed 29 subjects which are to be devolved upon Panchayats in addition to the schemes for economic development and social justice. While some States have devolved considerable powers and functions upon Panchayats, other States/Union territories are yet to do so. The Union Government have been actively pursuing the State Governments and Union territory Administrations to devolve more powers to Panchayats, both through high level meetings and through correspondence with the State Chief Ministers, Ministers and State Secretaries in-charge of Panchayati Raj. A Conference of Minister of Panchayati Raj of the States was held on 11th July, 2001 at New Delhi in which it was, *inter-alia,* resolved that the States and Union territories would devolve functions upon the PRIs in respect of the 29 subjects listed in the Eleventh Schedule and issue executive instructions devolving specific executive powers upon each tier of Panchayats…… Having an exclusive Ministry devoted for implementation of the Constitution (Seventy-third Amendment) tends to more control from the Centre. The Seventy-third Amendment aims at democratic decentralisation at the grass-root level. If everything is controlled from the Centre, it would be against the basic principles of the Seventy-third Constitution Amendment."

3.6 When asked as to why the States are hesitant to transfer subjects contained in the Eleventh Schedule to Panchayats as provided in article 243G, the Government have replied that devolution of powers upon Panchayats is a continuing process. While some States have devolved considerable powers and functions upon Panchayats, other States/Union territories are yet to do so. It has been observed that slow process of devolution of powers upon Panchayats is due to financial constraints of the States and depending upon the capacity building of Panchayati Raj Institutions.

3.7 On another query as to whether the Government ever contemplated to make an amendment to the Constitution or received suggestions from any quarter to introduce in the Seventh Schedule a list of functions that are to be carried out by the local self-governments at all the three tiers of the Panchayati Raj System, the Government have replied that no State Government/Union territory Administrations have suggested for introduction of a separate list of functions for local bodies in the Seventh Schedule. The National Institute of Rural Development (NIRD) organised a National Conference on Gram Sabha on July 28-29, 1999 and as an out-come of that Seminar it was

recommended that a fourth list called 'Panchayat List' may be included in the Constitution in order to make the Panchayati Raj Institutions (PRIs) really as units of 'self-government'. The Schedule Eleven to the Constitution already specifies the 29 Subjects to be devolved to PRIs, which derives as Constitutional mandate. Inclusion of a Fourth List in the Seventh Schedule indicating the same 29 Subjects would not bear any extra Constitutional authority in comparison to the existing status. Under all the 29 Subjects, each tier of Panchayats as well as the State Governments have their own role to play. What is needed is that each Subject needs to be desegregated into activities/task to be performed by different tiers of Panchayats and State Governments. State Governments will still be left with a great deal to do even after devolution of powers to Panchayati Raj Institutions of all the 29 subjects listed in Eleventh Schedule is completed.

Devolution of functions by law/executive orders

3.8 When asked as to whether some of the State Governments have devolved the functions by executive orders and as such violated the Constitutional provision under article 243G, the Department has stated that as per available information most of the State Governments have made the provisions in the State Panchayati Raj Act regarding functions to be devolved to the Panchayats. Thereafter in second phase, executive orders have been or are being issued for implementation of these provisions. No information regarding violation of the Constitutional provision under article 243G has come to the notice of the Ministry.

Inter tier allocation of functions

3.9 In relation to article 243G and the Eleventh Schedule, on a query whether the Government have made any study to demarcate clearly the level of Panchayat to which the functions contained in the Eleventh Schedule should relate and if not, how does the Government give clarifications to the States as to which function pertains to each level of Panchayat, the Committee were informed that the Conference of Panchayati Raj Ministers of States (held on 11th July, 2001 at New Delhi) had resolved that a Task Force comprising senior officers of the Ministry of Rural Development and of the State Governments would be set up to suggest measures towards the administrative decentralisation of funds, functions and functionaries upon Panchayats with regard to the 29 Subjects listed in Eleventh Schedule of the Constitution. Accordingly, a Task Force was constituted under the Chairmanship of the Additional Secretary & Financial Advisor in the Ministry of Rural Development and consisting of the State Secretaries in-charge of Panchayati Raj in Assam, Chhattisgarh, Kerala, Karnataka, Uttar Pradesh and West Bengal with Joint Secretary (dealing with Panchayati Raj) in the Ministry as Member-Secretary. The Task Force submitted its Report within the time frame. It is further submitted by the Department that while forwarding a copy of the report of the Task Force, the State Governments/Union territory Administrators have been advised to complete devolution of powers upon Panchayats by 31st March, 2002.

The suggestions made by the Task Force with regard to devolution

3.10 The Task Force examined the issue of devolution of responsibilities and powers upon Panchayati Raj Institutions in detail and suggested that devolution of responsibilities and powers has to be carried out by the State Governments in terms of :

(a) transfer of functions;
(b) transfer of functionaries;
(c) transfer of funds; and
(d) financial autonomy.

It was also suggested that each State Government would have to prepare a framework in conformity with the provisions of the Constitution to devolve appropriate powers to all the three tiers so that elected local bodies could be made functional in totality. With regard to transfer of functions to the three tiers of Panchayats, the Task Force has suggested an Activity Mapping, which has been given in *Appendix V*. As regards the transfer of functionaries to Panchayats the Department in its written note has submitted that the devolution of powers and functions by the State Government to the PRIs inevitably requires appropriate restructuring/reorganising of the administrative set up at all the three levels, viz., at the district, intermediate and village levels. The Task Force has made a number of observations/recommendations on executive and managerial measures that are imperative for the successful functioning of grassroot governance. In the following para a brief overview of the said observations/recommendations has been highlighted:

(a) While the independent character of each tier is to be maintained, there should be coordination among staff of different departments horizontally as well as vertically.
(b) An Officer equivalent to the District Collector in seniority and status may have to be posted as the Chief Executive Officer (CEO) of the District Panchayat for horizontal coordination.
(c) In States where the integration of the line departments has not yet taken place, as a short-run measure the concerned district level Departmental Heads may be made Ex-Officio District Panchayat Officer and made accountable to the CEO.
(d) Although finally there may be a separate cadre of staff meant for Panchayats exclusively, the existing staff should initially be placed under the control of Panchayati Raj Institutions on deputation basis. Some of the willing staff should be absorbed in the cadre of Panchayats. Simultaneously, efforts should be made to fill up vacancies through recruitment as soon as they fall vacant after the retirement of personnel not willing to be absorbed.
(e) All Class I posts can be filled on deputation basis from the State cadre. Class II officers belonging to Panchayati Raj may be recruited through the State Public Service Commissions or on deputation basis from the State Cadres. In case of Class III and lower staff, the recruitment may be at the Regional/District level through an independent Recruitment Board.

3.11 The overall aim of Part IX is to endow the Panchayats with such powers and responsibilities as may be necessary to enable them to function successfully as institutions of self-government, as per article 243G of the Constitution. State Legislatures have been empowered to endow Panchayats by law with such powers and authority as may be necessary to enable them to prepare plans for economic development and social justice and implement schemes for economic development and social justice, including those in relation to the matters contained in the Eleventh Schedule. The Committee, are, however, constrained to note that although more than nine years have passed since the Constitution (Seventy-third Amendment) Act was enacted, very few States seem to be serious about the implementation of said provision of Part IX. They further find that endowing Panchayats with certain functions is fruitful only if the Panchayats are equipped with the trained functionaries and adequate finances are also made available to them. Thus they note that Panchayats can fulfill their responsibility as institutions of self-government only if devolution is patterned on a nexus between the three Fs i.e. functions, functionaries and finances. The Committee are unhappy to note that very few States have linked the very important devolution of functions to the means of actualising such devolution through the devolution of functionaries and finances. Only one State, i.e. Karnataka has transferred the functions, functionaries and funds for all the 29 subjects enlisted in the Eleventh Schedule. Other States like Kerala and West Bengal are doing well. Yet it is really pathetic to note that several States/Uts have not yet transferred the funds *vis-à-vis* functions and functionaries, not even for a single subject to Panchayats. Further, the Committee find that there is lack of clarity about the tasks to be entrusted to different tiers of Panchayati Raj system.

3.12 The Committee appreciate the efforts made by the Union Ministry of Rural Development in appointing a Task Force, which dealt with this subject in detail and prepared an Activity Mapping (*see Appendix VI*). They also note that the State Governments/Union territories Administration have been advised to complete devolution of powers upon Panchayat by 31st March, 2002. They hope that the Activity Mapping prepared by the Task Force would be a model for the State Governments, and they would sincerely make efforts to ensure devolution of funds, functions and functionaries in the true spirit of the Constitution with the encouragement and support of the Centre.

3.13 The Committee further note that the said Task Force has made several observations/recommendations on executive and managerial measures that are imperative for the successful functioning of grassroot governance. They hope that the State Governments would act in accordance with the pattern of functional capacity building of Panchayats as recommended by the Task Force which would result in empowering the Panchayats in the true spirit of the Constitution to enable these institutions to function as institutions of self-government.

3.14 The Committee note that although it is the responsibility of the State Legislatures to endow the Panchayats with requisite powers and responsibilities in the true spirit of article 243G of the Constitution, the overall responsibility of monitoring the implementation of Part IX of the Constitution lies with the Union Ministry of Rural Development. They are constrained to note that even after the lapse of nine years of coming into force of the Constitution (Seventy-third Amendment) Act most of the States are yet to fully and conscientiously implement article 243G of the Constitution. They find that although the Union Ministry of Rural Development has set up different Departments to deal with its many functions, responsibilities and schemes relating to poverty alleviation and rural development, all of which should be planned and implemented through the Panchayats under Article 243G read with Schedule Eleven, the Ministry has no separate Department overseeing the implementation of Part IX of the Constitution. Since monitoring the implementation of the Constitution is the central responsibility of the Government of India, and given the complex and detailed provisions of Part IX, the Committee recommend that the Union Ministry of Rural Development be reconstituted as the Union Ministry of Panchayats and Rural Development, which would include a Department of Panchayats to oversee the work of the other departments of the Ministry to ensure that the Ministry itself promotes the implementation of article 243G in letter and spirit besides working with State Governments to ensure that they do likewise. The Committee further recommends that the proposed Union Ministry of Panchayats and Rural Development submit an annual State of the Panchayats Report to Parliament to enable Parliament to effectively monitor the implementation of Part IX. The Committee do not accept the view of the present Department of Rural Development that a Ministry of Panchayats might "tend to more control from the Centre." The role of the Centre would not be to "control" implementation but monitor implementation to ensure that the objectives and basic principles of Part IX are being pursued in letter and spirit.

(b) <u>Devolution of financial powers to Panchayats</u>
Constitutional Provision

3.15 Article 243H of the Constitution as reproduced below specifies the powers to impose taxes by and funds to the Panchayats.

"The Legislature of a State may, by law,-

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom,

as may be specified in the law."

3.16 As per the written replies, the status with regard to powers of Panchayats under article 243H to impose taxes and raise resources in different States is as below:

"In almost all the States, powers of taxation are confined to the Gram Panchayats. In several States like Andhra Pradesh, Assam, Kerala, Madhya Pradesh, Punjab, Tamil Nadu and West Bengal, the statute itself divides the taxes assigned to the Gram Panchayats into obligatory and optional categories. While in a few States like Gujarat, Orissa and Rajasthan, all taxes to be levied are made optional in nature. In Maharashtra, on the other hand, all taxes of Gram Panchayats are obligatory taxes, though the levy of octroi requires prior approval of the State Government. The various taxes assigned to the Gram Panchayat by different States are given in *Appendix VII*. In some States, the Intermediate Panchayats possess a few tax powers. For instance, this tier is assigned powers to levy tolls, surcharge on land revenue, cess on water rate, lighting and tax on professions, trades and callings in Assam; education cess, additional stamp duty in Gujarat; tax on theaters for public entertainment, development tax on agricultural land, and additional stamp duty in Madhya Pradesh; water rate, pilgrim tax, special tax on lands and buildings and tax on lands benefited by irrigation works or development schemes in Maharashtra; tools, lighting rate and water rate in Manipur, local rate, tolls, water rate and lightning rate in Punjab, cess on land revenue and profession tax in Rajasthan, local cess surcharge in Tamil Nadu, tolls, water rate and lighting rate in Tripura and water tax and electricity tax on public street. District Panchayats have not been endowed with any tax power in most of the States. They are, however, empowered to levy tolls, lighting rate and water rate in Assam; additional tax on Gram Panchayat taxes, additional stamp duty and profession tax in Gujarat; general water rate, special tax on lands and buildings and water rates in Maharashtra; water rate and additional stamp duty in Rajasthan; tolls, lighting rate and water rate in Tripura; tax on property, water tax and electricity tax on public street lighting in Uttar Pradesh and tolls, water rate and lighting rate in West Bengal."

3.17 On a query as to whether the State Governments have transferred the powers to raise resources/impose taxes in respect of all the functions that have been devolved to the Panchyats, the Committee were informed that, as already submitted in above paras, devolution of functions to Panchayats varies from State to State. Although some States have transferred certain functions to Panchayats, corresponding funds are yet to be transferred to Panchayats. As regards locally mobilised resources by the Panchayats, the position has been indicated above.

3.18 The Task Force constituted by Union Government examined the issue of powers to impose taxes by and funds of the Panchayats and recommended as below:-

"In conformity with article 243H, the State Legislatures should realize their responsibility and legally prescribe the taxes, fees, tolls and duties to be

assigned to the Panchayats as well as the State revenues to be assigned to Panchayats instead of leaving these crucial issues to be decided by the Executive Government. Some of the State taxes which deserve to be shared with the Panchayats comprise the profession tax, entertainment tax, land revenue, cesses on land, motor vehicle tax, etc. Profession tax, which is not being levied in some of the States, may be exploited by the State Governments concerned, and the revenue proceeds thereof may be transferred to the Panchayats."

The Task Force further opined that it may not be possible to prescribe any rigid and uniform pattern of financial devolution upon the Panchayats to all States. There are, however, a certain principles in general which should be given due consideration by each State while devising scheme of financial devolution for their Panchayats.

3.19 The Committee find that one of the primary factors behind the enactment of 73rd Amendment Act was the lack of financial resources which stood in the way of the Panchayats to acquire the status and dignity of viable and responsive peoples' bodies. Devolution of functions without funds is not realistic and can never provide the required momentum to the self-governing bodies to act independently in a fruitful manner. However, quantum and nature of devolution cannot be uniform keeping in view the varied needs of each State, the resources available for mobilisation and the implementing machinery involved in the process of mobilisation. The Committee agree with the Task Force's observation that keeping in view the federal character of the Indian Constitution and the divergence in the needs and functions of States, it may not be possible to set a rigid and uniform pattern of financial devolution to the Panchayats for all States. It is perhaps because of this, that the State Legislatures have been endowed with discretionary power to strengthen the finances of Panchayats. The Committee also agree that each State should give due consideration to certain principles in general while designing scheme of financial devolution for Panchayats (article 243H prescribes certain basic fundamentals). The State Legislatures, thus, have been given discretionary powers to strengthen the finances of Panchayats by arrangement of certain revenue powers and sharing of State revenues with Panchayats and payment of grants-in-aid. The Committee hope, as also observed by the Task Force, that State Legislatures will utilize the discretionary powers assigned to them in such a way that the same facilitate the transformation of the PRIs into wholesome, autonomous institutions of self-government.

3.20 The Committee find that the Task Force has specified certain taxes which deserve to be shared by the State Governments with the Panchayats like professional tax, entertainment tax or revenue cess on land, motor vehicle tax etc. They have also suggested that professional tax, which is not being levied in some States, may be accepted by the State Governments concerned and the revenue proceeds thereof may be transferred to the Panchayats. The Committee would like that the recommendations of the Task Force should be circulated to the State Governments for their consideration and implementation.

3.21 The Committee find that only a few State Legislatures have made adequate provision in their laws for the fiscal duties and rights of the Panchayats at different levels. No endeavour appears to have been made in this regard in other States. The Committee, therefore, recommend that the Union Government should identify a suitable expert body, to prepare model recommendations in this regard for the consideration of the State Finance Commissions and State Legislatures/Governments.

The Committee further find that although article 243H(a) provides for Panchayats to "appropriate" into their own funds the proceeds of taxes, etc. collected by them, few States appear to have encouraged this useful mechanism for Panchayats to raise their own resources. The Committee recommend that the Government should make the earnest effort to persuade the State Legislatures to consider which of the taxes etc. assigned to the Panchayats might be left to be appropriated by the Panchayats and request State Governments to prepare appropriate legislation in this regard. The Committee further recommend that such appropriation should be encouraged to the maximum extent possible.

(C) <u>Constitution of Finance Commissions to review the financial position of Panchayats</u>

3.23 Article 243I regarding constitution of State Finance Commissions is reproduced below:-

"243I (1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to-

(a) the principles which should govern-

(i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State."

(d) Composition of State Finance Commissions constituted in different States/Union territories

3.24 As per the Constitutional provision, State Finance Commissions shall be constituted within a period of one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992 i.e. latest by 23rd April, 1994. At the expiration of every five years, State Finance Commissions are required to be reconstituted in the States. A statement showing the status of constitution of State Finance Commissions and indicating the reasons for delay in constitution of State Finance Commissions in respective States/Union territories is given in *Appendix VIII*. It could be seen therefrom that most of the States/Union territories, barring a few, constituted their State Finance Commissions within one year of the enactment of respective State Panchayati Raj Act. The main reason therefore, in most of the States as indicated in the Statement is the delay in enactment of State Panchayati Raj Acts. In case of Assam, the delay has been mainly due to administrative reasons.

Recommendations of the State Finance Commissions

3.25 The gist of the recommendations of the State Finance Commissions, State-wise and the position of their acceptance by the State Governments has been given in *Appendix IX*. However, the overall position regarding receipt and acceptance of the reports of first State Finance Commission constituted in respective States/Union territories is given below:-

Sl. No.	States/Uts	Report of SFC	Acceptance of Report
1.	Andhra Pradesh	Received	Major recommendations accepted
2.	Arunachal Pradesh	Not set up	-
3.	Assam	Received	Partially accepted
4.	Bihar	Report awaited	-
5.	Goa	Received	Under consideration
6.	Gujarat	Received	Under consideration
7.	Haryana	Received	Under consideration
8.	Himachal Pradesh	Received	Accepted
9.	J & K	Not applicable	-
10.	Karnataka	Received	Major recommendations accepted
11.	Kerala	Received	Accepted
12.	Madhya Pradesh	Received	Accepted
13.	Maharashtra	Received	Major recommendations accepted
14.	Manipur	Received	Accepted
15.	Meghalaya	Not applicable	-
16.	Mizoram	Not applicable	-
17.	Nagaland	Not applicable	-

18.	Orissa	Received	Accepted
19.	Punjab	Received	Accepted
20.	Rajasthan	Received	Accepted
21.	Sikkim	Received	Accepted
22.	Tamil Nadu	Received	Accepted
23.	Tripura	Received	Accepted
24.	Uttar Pradesh	Received	Major recommendations accepted
25.	West Bengal	Received	Accepted
26.	A&N Islands	Received	MHA accepted but yet to be laid in Parliament
27.	Chandigarh	Not set up	-
28.	D&N Haveli	Received	MHA accepted but yet to be laid in Parliament
29.	Daman & Diu	Received	MHA accepted but yet to be laid in Parliament
30.	NCT Delhi	Not set up	-
31.	Lakshadweep	Received	MHA accepted but yet to be laid in Parliament
32.	Pondicherry	Received	Accepted
33.	Chhattisgarh	-	Adopted Rules framed by Madhya Pradesh
34.	Jharkhand	Not set up	-
35.	Uttaranchal	Report awaited	-

3.26 As per the written material made available to the Committee, the Ministry of Home Affairs have constituted a Finance Commission for the Union territories of Andaman & Nicobar Islands, Daman & Diu, Lakshadweep and Dadra & Nagar Haveli. The Finance Commission has submitted its report to the Ministry of Home Affairs and the Union territories have examined and furnished their comments to that Ministry. The Ministry of Home Affairs are now in the process of examining the comments of the Union territories, before implementing the Finance Committee's Report for these Union territories. The major suggestions arising out of the report of the Finance Commission for Union territories have been given in *Appendix X.*

3.27 According to the Constitutional provision of article 243I, SFC shall be reconstituted at the expiration of every fifth year. The constitution of the second SFCs thus became due in a number of States. The States such as Andhra Pradesh, Assam, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, West Bengal have constituted the second SFCs. SFCs in the States of Kerala, Punjab, Rajasthan, Maharashtra and West Bengal have submitted their 'Interim Reports' while the second SFC in Tamil Nadu has already submitted its Report.

3.28 When asked as to whether the Government have ever directed the States to prescribe a fixed tenure when the Finance Commissions in States were constituted and what measures the Government have suggested for furnishing of the SFC Reports in time, the Government have replied that fixed tenure for the State Finance Commission has not been prescribed by them. However, it was resolved, *inter alia,* in the Conference of State Ministers in-charge of Panchayati Raj held in July, 2001 at New Delhi that State Finance Commission should be constituted with clear terms of reference and for specified period and its recommendations should be accepted without delay and implemented in letter and spirit. It was also resolved that there should be a permanent Secretariat for the SFC or a Cell should be created either in the State Finance Department or State Planning

Department for follow up on action to be taken on such recommendations by various authorities.

3.29 The observation of the Task Force with regard to the State Finance Commission is reproduced below:-

> "The first-set of State Finance Commissions (SFCs) was appointed by the States in mid-1990s and except in Bihar, all other SFCs submitted their recommendations. However, one distressing feature of this Constitutional arrangement relates to inadequate follow-up measures by the States to implement the recommendations of their respective SFCs. In several cases, the pace of such implementation is very slow, although the second generation SFCs have already come into existence in many States. State Governments should therefore take expeditious measures to ensure that all recommendations of their SFCs which are agreed to, are implemented through relevant administrative, legislative and financial measures within a given time limit to be presented to the State Legislatures."

3.30 The Committee observe as under:-

(i) In many cases, time limit has not been fixed for the submission of reports by the State Finance Commissions;

(ii) In some cases, there has been delay in the constitution of State Finance Commissions and in the submission of their recommendations to State Legislatures.

3.31 The Committee further note that as could be seen from the status of the recommendations of various State Finance Commissions set up by the State Governments, most of the recommendations have been accepted by the respective State Governments. They also note the observations made by the Task Force according to which the implementation of the recommendations made by the Finance Commissions is the major constraint. Even after coming of the second generation State Finance Commissions into existence in many States, the Committee are unhappy to note that the pace of implementation of the recommendations made by the State Finance Commissions is very slow as pointed out by the Task Force. In view of this, they endorse the suggestions made by the Task Force that the State Governments should take expeditious measures to ensure that all recommendations of the respective State Finance Commissions, which are broadly agreed to, are implemented through relevant administrative, legislative and financial measures within a given time limit. The Committee would like that the Union Government should further pursue with the respective State Governments in this regard.

(d) <u>Tenth and Eleventh Central Finance Commissions</u>

3.32 The directives of the Tenth and Eleventh Finance Commissions in respect of Panchayats are as under:

(i) The Tenth Finance Commission, for want of SFC reports, made an ad-hoc provision of Rs.4381 crore for the Panchayati Raj Institutions (PRIs) for

the period 1996-2000. This amount was to be distributed amongst the PRIs, over and above their due by way of their share of the assigned taxes, duties, tolls fees, transferred activity released budgets and grants. States should draw up suitable schemes with detailed guidelines for utilisation of the grant. The local bodies were required to provide suitable matching contributions by raising resources. The grants were not intended for expenditure on salaries and wages. The Tenth Finance Commission also observed that the responsibility for sharing and assigning taxes and providing grants to the local bodies rest with the States (which does not stand transferred to the Centre) and the transfer of functions listed in the Eleventh Schedule alongwith staff and resources would not entail any extra financial burden on the States.

(ii) The Eleventh Finance Commission (EFC) recommended an amount of Rs.8000 crore during 2000-2005 to be utilised for maintenance of civic services (excluding payment of salaries and wages), out of which Rs.98.61 crore would be provided towards the maintenance of accounts at village and intermediate level Panchayats and Rs.197.06 crore for creation of database relating to finances of Panchayats, being first charged on these grants. The rest of the Grants would be used for the maintenance of civil services, namely, primary education, primary health care, safe drinking water, street lighting, sanitation (including drainage and scavenging facilities), maintenance of cremation/burial grounds, public conveniences and other common property resources but the projects should be normally be those that are not covered under other Schemes of the Government of India or the State Governments. The EFC recommended that the States should identify steps to be taken for enhancing the Consolidated Funds of the States for supplementing the resources of the Panchayats and their tax base (like Land taxes, Surcharges/Cess on State taxes, Profession tax, House tax, Octori/Entry tax and User charges) should also be optimised with a view to enable them to exercise their Constitutional mandate. The EFC also recommended that maintenance of accounts and auditing of accounts of Panchayats need to be set right under the close supervision of the Comptroller & Auditor General of India.

3.33 When asked for the review and monitoring mechanism available in the Ministry to oversee implementation of directions of Tenth and Eleventh Finance Commissions, the Department has stated as under:

> "The Tenth Finance Commission (TFC) had not prescribed any mechanism of review and monitoring of the scheme of devolution of local body grants. However, as per the guidelines for utilisation of the TFC Grants, the utilisation of TFC grants released by the Ministry of Finance was monitored by asking the State Governments to furnish details of actual utilisation within a period of 15 months from the dates of release of the funds to the local bodies. The States were also required to furnish the status of Panchayat elections and also a consolidated statement showing local body-wise details of release of funds and matching contribution, if any from the State Governments. However, as per the

guidelines for utilisation of local bodies grants recommended by the Eleventh Finance Commission (EFC), the Chief Secretary of the State shall be responsible for the State level coordination and monitoring. A Central Monitoring Committee has also been constituted to review the progress of implementation and monitoring of the Scheme. This Central Committee will be headed by Joint Secretry (FCD), Ministry of Finance consisting of representatives from the Ministries of Rural Development, Urban Development, Home Affairs, from the office of C & AG and State Finance Secretaries of Andhra Pradesh, Assam, Arunachal Pradesh, Bihar, Chhattisgarh, Gujarat and Goa."

3.34 The Committee find that the Tenth and Eleventh Central Finance Commissions have made some adhoc provisions for the Panchayati Raj Institutions for the period 1996-2000 and 2000-2005 respectively. The Committee note that the Tenth Finance Commission for want of SFC Reports had to resort to an adhoc provision of Rs.4381 crore. The Committee were informed that for the utilisation of the specific outlay, certain directives were also given to the State Governments. The Committee would like to know the guidelines drawn by the States in this regard and also whether the local bodies made suitable matching contributions by raising resources. They further note that a review and monitoring mechanism has been suggested by the Eleventh Finance Commission. The Committee stress that whatever funds have been allotted by the Tenth and Eleventh Finance Commissions to the local bodies should be utilised for the specified purposes. To ensure this, the Central Ministry has to monitor the implementation of directives of Tenth and Eleventh Finance Commissions. The Committee would like to be apprised of the details of the funds allotted to each of the States and the expenditure made till date categorically on maintenance of civic services i.e. primary education, primary health care, etc. The Committee note that the EFC asked the States to enhance the Consolidated Funds of the States for supplementing the resources of Panchayats. The Committee would like to know from the Government about the steps taken in this regard by State Governments. Besides, they would like to recommend that the Union Government in consultation with the State Governments should carefully review and monitor on an ongoing basis the implementation of the directives of the Tenth and Eleventh Finance Commissions with a view to prepare the terms of reference for the Twelfth Finance Commission. The Committee would like to know the steps taken by the Central Monitoring Committee in this regard.

(e) <u>Implementation of Centrally Sponsored Schemes through Panchayats</u>

3.35 When asked about the details of different Centrally Sponsored Schemes/Programmes of the Ministry of Rural Development being implemented through Panchayats, the Department in its written note has stated that as per guidelines 100% of the allocated funds under the Employment Assurance Scheme (EAS) and Jawahar Gram Samridhi Yojana (JGSY) recently restructured as Sampurna Gramin Rozgar Yojana (SGRY) are being implemented by the Panchayats. In this regard, the Secretary of the Department during the course of oral evidence submitted that the money for different

Schemes like SGRY is directly released to DRDA or Zila Parishad. The detailed mechanism for releasing funds in respect of SGRY is that the funds are released to DRDA or to the District Panchayat where DRDA has not been constituted. DRDAs then release funds direct to Gram Panchayat and Intermediate Panchayat. Under the Scheme funds are not released to the State Governments.

3.36 The Secretary further stated that the recently restructured programme SGRY is being implemented in two stream. The first stream of the programme is to be implemented at the district and intermediate level Panchayats. Fifty percent of the available funds are to be distributed between Zila Parishad and the intermediate level Panchayats or Panchayat Samitis in the ratio of 40:60. The second stream of the programme is to be implemented at Village Panchayat level. Fifty percent of the SGRY funds are earmarked for the stream.

3.37 The total Central Budget of the Ministry of Rural Development for the Centrally Sponsored Schemes during 2000-2001 was Rs.11,372.50 crore. The Ministry of Rural Development releases funds to the Intermediate Panchayats and Gram Panchayats through the District Panchayats (DPs)/District Rural Development Agencies (DRDAs) under the Poverty Alleviation Schemes relating to the Jawahar Gram Samridhi Yojana (JGSY) and the Employment Assurance Scheme (EAS). During the year 2000-2001, the funds released under these two Schemes were Rs.1327.56 crore and Rs.1160.27 crore respectively.

3.38 The Task Force recently constituted by the Ministry of Rural Development have examined the issue regarding implementation of different welfare schemes in various States and suggested as below:-

"The Task Force felt that there is an urgent need to rationalize all the Schemes those are being implemented at the district and also at Panchayats level. Over the years the Government have built a plethora of schemes that purport to define with greater precision when, how and by whom expenditure has to be incurred. Each Scheme is provided with guidelines, which require to be serviced through a distinct budget head without realising that this carries with a burdensome management and accounting codes and procedures. Worthless time is spent in writing expenditures and under head through complicated procedures devised for implementation of these Schemes. The Members of Task Force revealed that at the district level more than 300-400 Schemes with meager amounts are being implemented. It has become difficult to keep track of these Schemes and monitor their expenditures. All such Schemes having a small allocation should be merged with some broader guidelines at the district level and converted into 'untied' grants under one Head. Each department of the Centre and State Governments may review their guidelines keeping in view the necessity and objective of their Schemes.

It has also been felt that there are a number of departments whose schemes nearly interface with some other departments, for example Social Welfare, Women & Child Welfare, Rural Development, Agriculture, Education, Health etc. It is felt that the common schemes having common beneficiaries/target groups can be converged to avoid complications and duplications.

The Task Force strongly felt that issues regarding convergence of Schemes should be pursued by the Central and the State Governments, so that PRIs can have greater flexibility in responding to local needs. The Centre and State Governments should make efforts towards the convergence of these schemes at the District, Intermediate and Gram Panchayat level.

It has been reported that more than Rs.40,000 crore of the total annual plan outlay under the Centrally Sponsored/Central Sector Schemes and about Rs.31,000 crore of annual plan outlay of the State Plans, partly or wholly, related to 29 Subjects mentioned in the Eleventh Schedule are implemented by the State Governments at the State and District level. It is, therefore, suggested that the proportion of the scheme funds implemented at the District level should be transferred to the PRIs proportionately according to their needs." Details of outlay for the Annual Plan 2000-2001 under the State and Central Sector/Centrally Sponsored Schemes are given at *Appendices XI* and *XII* respectively.

3.39 The Committee have repeatedly been recommending in their reports to implement all the Centrally sponsored schemes by Panchayats. They have also been recommending for transfer of outlay directly to the Panchayats at appropriate level. They are unhappy to note that inspite of their repeated recommendation only one scheme i.e. Sampoorna Grameen Rozgar Yojana (SGRY), which is a combination of EAS and JGSY, is being implemented by the Panchayats. They are equally disturbed to note that during 2000-2001 less than 25% of the outlay earmarked for Centrally Sponsored Schemes was transferred to DRDA/ Zila Parishad. In this scenario, the Committee feel that not only the States, the Union Ministry is also not serious in implementing Part IX of the Constitution. They, therefore, strongly recommend that as per the Constitutional mandate Central Government should release all funds for Centrally Sponsored Schemes falling within the ambit of the Eleventh Schedule directly to the Panchayats at the appropriate level as has been done in the recently restructured scheme SGRY.

3.40 The Committee note that the Task Force has given valuable suggestions for convergence of a plethora of Central and State level schemes to avoid complications and duplication. The Committee have also been repeatedly drawing the attention of the Government in this regard in their Reports. They strongly recommend that earnest and immediate action should be taken in this regard.

3.41 The Committee further find that the Task Force has recommended that all the Central as well as State level schemes should be merged with some broader guidelines at the district level and converted into untied grants under one head. The Committee endorse the said recommendation of the Task Force with the hope that money earmarked for development purpose would not be diverted for other purposes like ways and means advances for the disbursement of salary of State Government officials etc.

3.42 The Committee have dealt with DRDA Administration in a separate Chapter in the Report. However, in the context of Centrally Sponsored

Schemes/Programmes, they would like to recommend strongly that the Government should ensure that the outlay for all the Centrally Sponsored Schemes is released directly to the Panchayats at the appropriate level and not through DRDAs.

3.43 The Committee recommend that in hilly areas, in view of the limited working season, the funds for different Centrally Sponsored Schemes/Programmes should be released in one instalment rather than several instalments.

(f) <u>Audit of Panchayat Accounts</u>

3.44 Article 243J regarding audit of Accounts of Panchayats provides as below:

> "The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts."

3.45 When asked whether the Government have issued any guidelines to the States in respect of audit of accounts maintained by Panchayats, the Committee were informed that:

> "The Eleventh Finance Commission have suggested that the Comptroller and Auditor General of India (C&AG) may be entrusted with the responsibility of exercising control and supervision over proper maintenance of accounts and their audit for all the tiers of Panchayats. The Commission also recommended that the Gram Panchayats, which do not have exclusive staff for maintenance of accounts, may get the work done, on contract basis for which each Gram Panchayat can spend an amount of Rs.4000 per annum. These recommendations have been accepted and an amount of Rs.9860.72 lakh set apart for maintenance of accounts of Gram Panchayats and Intermediate Panchayats."

The Union Government have issued guidelines for utilisation of local bodies grants recommended by the Commission. State Governments have been advised to send a request under Section 20(1) of the C&AG (DPC) Act requesting C&AG to exercise control and supervision over the proper maintenance of accounts and their audit for all three tiers of PRIs. The C&AG shall lay down the qualifications and experience for the agency/person who could be contracted out the work of maintenance of accounts by local bodies, particularly Gram Panchayats and in some cases Intermediate Panchayats that do not have trained accounts staff. Such qualified agency/person will be registered by the Director, Local Fund Audit who will supervise the quality of work of such agency/person under the directions of C&AG. It has also been stipulated that format for preparation of Budgets and for keeping of accounts for the Panchayats shall be prescribed by the C&AG.

3.46 The Task force constituted by the Central Ministry of Rural Development have also endorsed the recommendations made by the Eleventh Finance Commission with regard to audit of Panchayat accounts.

3.47 Regarding satisfactory implementation of article 243J by States, the Government gave the following information:

"Under article 243J of the Constitution, the State Legislatures have been vested with powers to make provisions for the auditing of Panchayat accounts. The State Legislatures have made provisions in their statutes for audit of Panchayat Accounts. It has been observed that in the absence of uniform format for maintenance of accounts and audit, the procedures followed by the States vary from State to State. A study conducted in Kerala, Tamil Nadu, Tripura, Madhya Pradesh and Uttar Pradesh, disclosed that the audit of accounts of various Panchayats was either not conducted or was pending. However, after the guidelines for the utilisation of local bodies grants recommended by the Eleventh Finance Commission have been issued, maintenance of accounts and audit of Panchayat accounts would be conducted under the overall supervision of the C&AG and an effective system will be introduced."

3.48 While recommending for release of funds directly to Panchayats the Committee are deeply concerned over the position of audit of Panchayat accounts in various States. They are surprised to note the findings of a study conducted by the Department of Rural Development in the States of Kerala, Tamil Nadu, Tripura, Madhya Pradesh and Uttar Pradesh according to which the audit of accounts of various Panchayats in the said States was either not conducted or was pending. The Committee feel that the present procedure for auditing the accounts of Panchayats is serving little purpose because the sheer volume of work is resulting in inordinate delay in audit and action taken thereon. The delay fuels corruption and malfeasance. As suggested by the Eleventh Finance Commission and endorsed by the Task Force, the responsibility of audit of the three tiers of Panchayats should be entrusted to the Comptroller and Auditor General of India after consultation with the State Governments for effective audit to deter corruption and malpractices.

CHAPTER IV

ROLE OF GRAM SABHA

The definition of Gram Sabha has been given in article 243(b) of the Constitution according to which, a "Gram Sabha means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the Village level." The functions of Gram Sabha have been specified in article 243A according to which "A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide."

4.2 When asked whether all the States have laid down mandatory procedures for Gram Sabha in their Panchayati Raj Acts to carry out social audit, quorum for Gram Sabha meetings, the following reply was given:

> "Most of the State Panchayati Raj Acts prescribe a quorum for the conduct of the Gram Sabha meeting as given in *Appendix XIII*. Madhya Pradesh prescribes the highest quorum, at one-third, with the progressive additional provision requiring that at least one-third of those participating must be women. However, all State Panchayati Raj Acts or Rules that prescribe a quorum require no quorum when the Gram Sabha is reconvened. Many State Legislatures have legally empowered the Gram Sabha for social audit."

4.3 As regards quorum, the States of Arunachal Pradesh, Assam, Bihar, Goa, Gujarat, Haryana, Kerala, Karnataka, Manipur, Orissa, Rajasthan, Sikkim, Tamil Nadu and Union territories of Andaman & Nicobar Islands, Daman & Diu and Lakshadweep have fixed $1/10^{th}$ of total Members/Electorate as Quorum, $1/5^{th}$ of Electorate/Members has been retained by the States of Himachal Pradesh, Punjab and Uttar Pradesh. West Bengal has fixed $1/20^{th}$ of total members. Tripura and Maharashtra have fixed the quorum as $1/8^{th}$ and 15% of the electorate respectively. All the State Acts or Rules that prescribe a quorum, require no quorum when the Gram Sabha is reconvened. However, Madhya Pradesh Rules have one redeeming clause that no new item can be discussed in a Gram Sabha meeting, which has been adjourned because of the failure to muster the prescribed quorum.

4.4 Regarding the punitive measures suggested by States like stalling of funds to the Panchayat for a period of six months etc., where the Gram Sabha is violating the norms of quorum etc., the Committee were informed that no such request has been received from any State/Union territory.

4.5 When the Committee wanted to know as to whether the Government have suggested to the States any minimum or maximum number of sittings of the Gram Sabha to be held in a year, the quorum of such sittings etc., they were informed that the Conference of the State Ministers of Rural Development and Panchayati Raj held in Delhi on 13^{th} May, 1998 resolved that the Gram Sabha should be convened on a single pre-determined day every quarter. In pursuance of this resolution, the Union Government advised the State Governments/Union territory Administrations to ensure that Gram

Sabhas should meet at least once in each quarter, preferably on 26th January – Republic Day, 1st May – Labour Day, 15th August – Independence Day and 2nd October – Gandhi Jayanti. However, no minimum quorum for Gram Sabha was fixed by the Union Government. The State Governments/Union territory Administrations were advised to make legal provisions for the presence of women, Scheduled Castes and Scheduled Tribes in the quorum of Gram Sabha meetings.

4.6 The Committee were further informed that as regards the practice obtaining in respect of the aforesaid, the States of Assam, Bihar, Kerala, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu and Uttar Pradesh are holding Gram Sabha meetings four times in a year whereas the States of Andhra Pradesh, Arunachal Pradesh, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Manipur, Punjab, Rajasthan, Sikkim, West Bengal and Union territory of Lakshadweep are holding Gram Sabha meetings twice in a year.

4.7 The Task Force constituted by the Union Government in their Report had made the following observation regarding social audit by the Gram Sabha:

> "The Task Force felt that the States should legally empower the Gram Sabha and issue necessary guidelines for the conduct of social audit by Gram Sabhas. Social Audit should have binding legal outcomes so as to curb corruption and misutilisation of funds at the Gram Panchayat level. It was felt that the following four-point strategy of the Ministry of Rural Development for strengthening of Gram Sabha and effective implementation of different Rural Development Schemes should be implemented in letter and spirit:
>
> - Participation of the community in the preparation of need based Action Plans, their execution and monitoring;
> - Awareness through Print and Electronic Media, street plays and training to the elected Panchayat representatives;
> - Transparency by displaying all the relevant information on a Bill Board regarding estimates, availability of funds and expenditure on the works taken up by the Panchayats, making available all relevant records for inspection by the public, providing photocopies of documents on demand, on payment of nominal charges and prescribing well-defined methods for selection of beneficiaries."

4.8 The sub-Committee during their study visit to Hyderabad discussed the various issues regarding implementation of Part IX of the Constitution with the experts. They were apprised that the meetings of Gram Sabha were not being held properly. The beneficiaries for various schemes when selected by the Panchayats were being changed at the Taluka level by the interference of elected MPs and MLAs or Taluka Panchayats or District Panchayat Chairman.

The Standing Committee on Urban and Rural Development in their earlier Report [Paragraph 3.19(b) of Thirteenth Report (Thirteenth Lok Sabha) refers] have stressed that the beneficiaries of various welfare schemes should be unambiguously identified by the Gram Sabha.

Role of women in Gram Sabhas

4.9 Regarding the participation of women in the proceedings of Gram Sabha, the Committee asked the Ministry to assess the functioning of Gram Sabhas led by women Sarpanches. Further it was asked whether any difference/deficiency has been detected in the functioning of Gram Sabhas with women Sarpanches as compared to the level of functioning of Gram Sabhas led by male Sarpanches, the Government replied as below:

> "There appears to be no substantive difference in the functioning of Gram Sabhas led by women Sarpanches in comparison to that of male Sarpanches. While a few cases have come to the notice where women Sarpanches from weaker sections may not match with those headed by men, such cases are, however, disappearing consequent on women Sarpanches getting trained in matters relating to their functions. On the other hand, it has been experienced that in some cases in Bihar, attendance of women was more in the Gram Sabhas led by women Sarpanches."

4.10 Further the Ministry also pointed out certain steps to activate the women Sarpanches led Gram Sabhas:

> "…….to build their self-confidence, members of Panchayats, especially women Members, are required to be sensitized about their role and responsibilities in developmental programmes and to encourage their participation in the decision making process. They may be oriented with necessary skills related to conduct of meetings, budget preparation, financial management of Panchayat funds and its applications, purchase rules and inventory management, maintenance of accounts, social justice and gender issues, communication skills, leadership style and responsive administration etc."

Role of Executive Officer in the Gram Sabhas

4.11 As per the information received from the Ministry the role of the Executive Officer in Gram Sabhas has been enumerated as below:

> "The role of Executive Officer i.e. Panchayat Secretary in the Gram Sabha is to record the proceedings, to place before the Gram Sabha, income and expenditure statement and status of works undertaken by the Gram Panchayat. He also helps the Presiding Officer with regard to the provisions of Acts, Rules and instructions issued by the Government. Besides, he also gives such information as required by the Gram Sabha. In some States, Executive Officers like Deputy District Development Officer, Taluka Development Officer and village level officers attend the Gram Sabha meetings to guide the Gram Sabhas regarding different schemes/development work and also the infrastructure facilities, which are to be taken up in the village."

The position of Gram Sabha in the Panchayats (Extension to Scheduled Areas) Act, 1996

4.12 Powers and functions of the Gram Sabhas in Tribal areas have been clearly laid out in the Panchayats (Extension to Scheduled Areas) Act, 1996 enacted in pursuance of article 243M 4 (b) of the Constitution. Article 243M 4 (b) is reproduced below:-

> "243M 4 (b). Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purpose of article 368."

4.13 As can be seen from the above mentioned article that Scheduled Areas, tribal areas and other three category areas have been treated on a different footing as compared to the rest of the country. In pursuance of article 243M 4 (b), the Parliament passed the Panchayats (Extension to Scheduled Areas) Act, 1996, which clearly and specifically sets out the functions of the Gram Sabha.

Under this Act, Gram Sabha has been vested with powers for:-

- Ownership of Minor Forest Produce
- Development plans approval
- Selection of beneficiaries under various programmes
- Consultation on land acquisition
- Manage minor water bodies
- Control mineral leases
- Regulate / prohibit sale of intoxicants
- Prevent alienation of land and restore unlawfully alienated land of STs
- Manage village markets
- Control money lending to STs
- Control institutions and functionaries in all social sectors

Most significantly the Act also provides for Gram Sabhas in Fifth Schedule Areas to:

(i) approve all plans and programmes prepared by the Panchayats;
(ii) undertake beneficiary identification; and
(iii) authorise the issue of utilisation certificates.

4.14 The Committee find that as per the Constitutional provisions, the powers and functions of Gram Sabha have been left to the discretion of the State Legislatures. They note that the Panchayat (Extension to the Scheduled Areas) Act, 1996, passed by Parliament in pursuance of article 243M4 (b) sets out the functions of Gram Sabhas in an exemplary manner. The Committee, therefore, recommend that these provisions be taken as a model and circulated to State Governments for adoption so as to empower Gram Sabha effectively in areas other than the Scheduled Areas.

4.15 While going through the position of quorum in different States, the Committee find that there is no uniformity in this regard. They also note that all the State Acts or Rules that prescribe a quorum require no quorum when the Gram Sabha is reconvened. The Committee feel that this provision is an easy tool in the hands of village sarpanch and powerful local leaders to take decisions according to their desires. The Committee are of the view that without quorum the representative character of Gram Sabha is not pronounced and hence quorum is absolutely necessary even if the meeting is reconvened. The Committee note that Gram Sabha is a forum where every adult of the village is entitled to come and express his grievances and his desire for development of education and other related aspects. Besides, this is the best forum for social audit. In view of the importance of Gram Sabha meetings, the Government should consider to make a provision to the effect that even in adjourned meetings as and when held, the quorum is insisted upon. Further if for the third time, there is no quorum, the development fund of the village should be stalled for a limited period of time. They think that such a provision would create a community stake in holding meetings of the Gram Sabha. To ensure proper participation in Gram Sabha, the date and time of meeting of Gram Sabha should be settled well in advance and given publicity and all concerned should be asked to attend the meeting. The Agenda of Gram Sabha should also be given adequate publicity so that the common people could put forward their suggestions for consideration of Gram Sabha from time to time. Besides, the Government should find out ways and means to provide financial incentives in the form of allowance for those citizens who cannot attend the Gram Sabha meetings due to distance or health reasons by providing arrangements for transport etc. The Committee also feel that the decisions taken at the meeting of Gram Sabha should be well publicised so that the people at large could know about the measures contemplated and action taken. Without peoples' participation economic planning cannot be effective and this is a must.

4.16 The Committee have dealt with role of women in Panchayati Raj Institutions separately in a subsequent Chapter. However, they would like to stress here that in view of the crucial importance of adequate women participation in meetings of the Gram Sabha, a sub quorum of women attendance be built into the required quorum. It should also be ensured that the meetings of the Gram Sabha are conducted at the appropriate time so that women feel comfortable in attending the meetings. In order to ensure that gender concerns and preferences are fully reflected in the proceedings of the Gram Sabha, the meetings of the Gram Sabha should be preceded by meetings of the Mahila Sabha so that women interlocutors authorised to do so by the Mahila Sabha effectively participate in Gram Sabha meetings.

4.17 The Committee further note that it has been resolved in the Conference of the State Ministers of Rural Development and Panchayati Raj held in Delhi on 13th May, 1998 that the meetings of the Gram Sabha should be convened on single pre-determined days at every quarter. They find that pursuant to this resolution, some of the States are holding Gram Sabha meetings four times a year. But in most of the

States the meetings are held twice a year. They would like that the defaulting States should be requested to adhere to the minimum four sittings in a year as resolved in the said Conference. The Committee also feel that the meetings of the Gram Sabha should not be held for the sake of counting numbers. There should be effective agenda for the consideration of Gram Sabha meetings. Besides, as repeatedly been recommended by them in their respective reports, the beneficiaries of various welfare schemes should be identified by the Gram Sabha. The concerned State officials and officials of the banks etc. concerned with the Central/State sector welfare schemes should invariably be required to attend the said meetings to make the Gram Sabha meetings really effective. They also feel that if the meaningful agenda is considered in Gram Sabha meetings, it will encourage the members of the Gram Sabha to attend the meetings invariably.

4.18 The Committee note that Task Force has made very valuable observations regarding social audit by Gram Sabha. They feel that there is no denying the fact that if the people are enlightened, the meetings of the Gram Sabha could be a forum to curb corruption and misutilisation of funds at the Gram Panchayat level. They, therefore, would like that the States should legally empower the Gram Sabhas for social audit.

4.19 The Committee note that the Executive Officer i.e. Panchayat Secretary has a crucial role to play in the Gram Sabha meetings. However, they find that sometimes Panchayat Secretary exercises overwhelming powers and is controlling everything. The Committee feel that this is not in the spirit of the Constitution and should be discouraged.

CHAPTER V

LAWS BY STATES/UNION TERRITORIES IN CONFORMITY WITH PESA, 1996

As per the information furnished by the Ministry of Rural Development, the legislative amendments that were required to be made in different States to bring laws in conformity with the Constitutional provisions under PESA, 1996 of the Constitution were carried out in some States as given below:-

The State Governments having Schedule V Areas are required to amend their Subject Laws/Acts relating to the following subjects to bring them in conformity with the provisions of the Panchayats (Extension to Scheduled Areas) Act (PESA), 1996:-

(i) Acquisition of Land;
(ii) Grant of Prospecting License or Mining Lease for Minor Minerals;
(iii) Grant of concession for the exploitation of Minor Minerals by auction.
(iv) Planning and Management of Minor Water Bodies.
(v) Power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant.
(vi) Ownership of Minor Forest Produce;
(vii) Power to prevent alienation of land in Scheduled Areas;
(viii) Power to manage Village Markets;
(ix) Power to exercise control over Money Lending in the Scheduled Areas.

5.2 All the nine States viz. Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chhattisgarh, Orissa and Rajasthan, have amended their Subject Acts/Laws in pursuance of the provisions of PESA,1996, but these amended Acts/Laws are yet to be implemented in letter and spirit by most of the States. The State-wise status of amendment of Subject laws/Acts by the States having Scheduled V Areas is given below:-

ANDHRA PRADESH:

In Andhra Pradesh, the Intermediate Panchayats are required to be consulted before acquisition of lands for development projects/rehabilitation programmes. The Gram Panchayats have been accorded recommendatory powers for grant of license or mining lease for minor minerals and for grant of concession for the exploitation of minor minerals by auction. According to the Central Acts, the planning and management of water bodies shall be entrusted to the Panchayats at the appropriate level. The Government of Andhra Pradesh entrusted this responsibility on the three tiers of Panchayats without specifying the nature of works to be taken up by the respective Panchayats. The Gram Sabha/Gram Panchayat has been given powers to enforce prohibition or to regulate the sale of intoxicants. The Andhra Pradesh Amendment Act says that either the Gram Panchayat or the Gram Sabha, as decided by the Government, shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in the matter relating to the ownership of Minor Forest Produce. The Andhra Pradesh Act also says that the State Legislature will decide that either the Gram Panchayat or the Gram Sabha exercises such powers and performs such functions in such manner and to such extent in respect of prevention for alienation of land. The

Gram Sabhas or Gram Panchayats have been given responsibilities to manage village markets for control over money lending.

CHHATTISGARH:

The Land Acquisition Authority is required to consult the Gram Sabha before acquiring land. Recommendatory powers have been given to The Gram Sabha to grant license or mining lease for minor minerals and to grant concession for exploitation of minor minerals by auction. The Gram Sabhas have been extended powers to lease out any minor water body upto a specified area for the purpose of fishing and other commercial purpose and Intermediate and District Panchayats have been given powers to plan and manage minor water bodies upto a specified water area. The Gram Sabha has powers to enforce prohibition/regulate sale of intoxicants and to manage village markets. As regard MFP, the Cooperative Societies responsible for plucking of Tendu leaf make arrangements for sale of the leaf through auctions and are providing 50% of income to Collectors and 30% for Cooperative Societies while 20% is kept with the Forest Department for development of forests. It has been observed that if 50% of the sale proceeds go to Societies and the Department, the pluckers having ownership over MFP would not get much benefit (whereas they should get maximum share).

GUJARAT:

As regards acquisition of land, the Government of Gujarat have assigned this responsibility to Intermediate Panchayats. The Gram Panchayats have been given powers for grant of license or mining lease for minor minerals and grant of concession for exploitation of minor minerals by auction. The Gram Panchayats have been given powers to enforce prohibition to regulate sale of intoxicants, rights of ownership of Minor Forest Produce, to manage village markets/melas to exercise control over money lending. However, the District Panchayats have been given power to prevent alienation of land and to take action to restore unlawfully alienated land of Scheduled Tribes.

HIMACHAL PRADESH:

All the Subject laws have not yet been amended/modified to bring them in conformity with the PESA, as different Departments have different opinions and it has now been reported that the proposed amendment of Subject Laws/Rules has been almost finalised (necessary orders would be issued shortly). The State Government have made necessary provisions in the State Panchayati Raj Act. As regards acquisition of land, the Gram Sabhas are to be consulted before such acquisition and have been given recommendatory powers for grant of concession for exploitation of minor minerals by auction. However, Panchayats at different tiers have been extended powers for planning and management of minor water bodies. The Gram Panchayats or the Gram Sabhas will have the power to enforce prohibition or to regulate sale of intoxicants, ownership of Minor Forest Produce, to manage village markets and to exercise control over money lending.

JHARKHAND

It has been reported that various Subject Laws/Acts would be amended very soon to bring them in conformity with the provisions of PESA.

MADHYA PRADESH:

The Madhya Pradesh Amendment Act makes provision that before acquiring land in the Scheduled Areas for development projects, the Land Acquisition Authorities shall consult the concerned Gram Sabha. Under the Mines and Minerals Act, 1957, the Gram Sabhas have been given the powers to grant quarry leases and quarry permits for minor minerals and grant of concession for exploitation of Minor Minerals by auction.

The Madhya Pradesh Act has devolved the following functions and powers to Gram Sabhas relating to planning and management of minor water bodies:- (i) to lease out any minor water body upon a specified area for the purpose of fishing and other commercial purpose and (ii) to regulate the use of water of rivers, streams and minor water bodies for irrigation purposes. The Act has also assigned certain powers relating to this subject to higher tiers of Panchayats. The Gram Sabhas have been given powers to enforce prohibition/regulate the sale of intoxicants and to manage village markets.

MAHARASHTRA:

In Maharashtra, every Panchayat is to be consulted by the Land Acquisition Authority before such Authority acquires any land in the Scheduled Areas but the Panchayats have to consult the Gram Sabha before conveying their views to the concerned Authority. The State Government have accorded powers to the Gram Panchayat regarding grant of prospecting licence or mining lease for minor minerals, but assigned recommendatory powers to the Gram Panchayat in respect of grant of concession for exploitation of minor minerals. Gram Sabhas have been given powers to enforce prohibition/regulate sale of intoxicants, assigned ownership of Minor Forest Produces, to take recommendation to prevent alienation of land (Intermediate Panchayat for more than one Panchayat and District Panchayats for more than one Block) and to exercise control over Money Lending. While the power to regulate Minor Water Bodies has been entrusted to District Panchayats, the power to manage village markets has been vested with the District Panchayat and the Intermediate Panchayat.

ORISSA:

In Orissa, the District Panchayats are required to be consulted in regard to Acquisition of land, License or Mining Lease for Minor Minerals and grant of concession for the exploitation of Minor Minerals by auction. The Gram Sabhas have been authorised to enforce prohibition or to regulate sale of intoxicants and to control and supervise Minor Forest Produces (MFPs); major MFPs have been excluded. Subject to the control and supervision of the Gram Sabha, the Gram Panchayats have been authorised to prevent alienation of land, to manage village markets and to exercise control over Money Lending.

RAJASTHAN:

In Rajasthan, the Gram Sabhas or Panchayats at appropriate levels have been given recommendatory powers to grant concession for exploitation of minor minerals by auction and planning and grant of prospecting license or mining lease for minor minerals.

However, the management of minor water bodies has been entrusted to Panchayats at such level as may be prescribed by the State Government and the Gram Panchayats have been given powers to prevent alienation of land, to manage village markets and to exercise control over money lending.

5.3 The Committee recommend that the courts be approached to clarify the jurisprudence in regard to whether the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) has to be implemented as such in the Fifth Scheduled Areas, as per provisions of the Constitution or whether PESA is supposed to only be a legitimate guideline for the State Legislatures and further the jurisprudence needs also to be clarified as to the applicability of PESA in the two newly constituted States, viz. Chattishgarh, Jharkhand which fall entirely within the Fifth Schedule Areas of the erstwhile States of Madhya Pradesh and Bihar respectively.

5.4 The Committee find that although the concerned States excluding Jharkhand have amended their State Acts/Laws in conformity with the PESA, these amended Acts/Laws are yet to be implemented in letter and spirit. They feel that as the said Acts/Laws have been passed pursuant to Constitutional provisions, the failure to implement the Act in Fifth Schedule Areas amounts to non-compliance with the Constitutional provisions. They take serious note of this and urge the Government to take all the necessary steps in this regard.

5.5 The Committee find that as per the information furnished by the Department, Jharkhand has yet to amend State Act/Law in conformity with the provisions of Panchayats (Extension to Scheduled Areas) Act, 1996. They would like to be apprised of the present position in this regard.

CHAPTER VI
PARALLEL BODIES AND INVOLVEMENT OF NGOS

(a) Parallel Bodies

As per the information provided by the Ministry, it has been observed that some of the State Governments/Union territories have established parallel bodies, which are dealing with functions given to Panchayati Raj Institutions in violation of the provisions of the Constitution.

6.2 When the Committee wanted to know as to whether the Government are aware that some of the States have established parallel bodies to undertake functions which should have been addressed by the three tiers of Panchayats, they were informed that the matter relating to 'parallel bodies' constituted by the States was discussed in detail in the Conference of State Ministers in-charge of Panchayati Raj held in July, 2001 at New Delhi. The Conference noted that 'parallel bodies' are increasingly being set up by the States to undermine the authority of elected Panchayati Raj Institutions and such bodies should not go against the spirit of the Constitution (Seventy-third Amendment) Act. The Conference recommended that instead of setting up parallel bodies, States should implement the existing provision for Panchayat sub-Committees on different subjects and train the Panchayat members for this purpose.

6.3 The Task Force constituted by the Union Ministry of Rural Development dealt with the issue of Committee system of Panchayats in depth and the suggestions which emerged are given below:

> "The organisational set up of the Panchayati Raj bodies comprises the Governing Body and the Standing Committees. While the Governing Body concerns itself with the overall policy, planning and the approval of the budget, the Standing Committees actually plan and review the functioning of various schemes. The structure and the functioning of the Standing Committees vary from State to State. While certain States have a limited number of Standing Committees, covering broad areas like planning and administration, the other States have provided for specific Subject Committees, in addition to General Committees like the Finance and Works Committee. There is a need to strengthen the Committee system at all the three levels.
>
> States where the legislation did not provide for adequate number of Committees may ensure their constitution for specific and important subjects. Facilitating participation of a maximum number of elected representatives, the District as well as the Intermediate Panchayats should have the freedom to appoint additional Committees for specific identified subject as may be locally considered appropriate and necessary. States may statutorily provide freedom to the Panchayati Raj Institutions to constitute adequate number of Subject Committees covering important subjects and empower the Committees with adequate executive functional and financial powers."

6.4 An illustrative list of such Standing Subject Committees is given in *Appendix XIV*.

6.5 The Task Force also recommended for inter-tier Standing Committee on monitoring and supervision as given under:

> "It is suggested that an inter-tier Standing Committee on monitoring and supervision consisting of elected representatives of Intermediate level Panchayat and District Panchayat not holding any office in any Subject Committee of the District Panchayat or Intermediate Level Panchayat. The representation of the weaker sections particularly Scheduled Castes/Scheduled Tribes and Other Backward Classes and women should be ensured in proportion to their representation in these bodies. The ideal size of the Committee should be between 10 to 15 members depending upon the size of the District Panchayat and Intermediate level Panchayats."

6.6 The Committee system of Panchayats has thus been propounded as a sound measure to achieve effective devolution of power at the grassroot level. The Committee were also informed that some of the States have merged Zila Parishads with DRDAs on the instructions of the Ministry of Rural Development. The Conference of Chief Ministers held on 2nd August, 1997 recommended that the DRDAs be restructured so as to function under the overall control and supervision of the District Panchayats. In pursuance of that recommendation, the State Governments and Union territory Administrations were advised to merge DRDAs with District Panchayats and make the Chairperson of the District Panchayats as Chairperson of the DRDAs.

6.7 When the Committee wanted to know the views of the Government on bringing DRDAs under the Zila Parishad so as to minimise the influence of bureaucrats in different developmental programmes, they were informed that as per the existing guidelines of the Department of Rural Development, DRDAs are to function under the Chairmanship of the District Panchayats while maintaining their separate identity. They are expected to be a facilitating and supporting organisation to the District Panchayats providing necessary executive and technical support in respect of poverty alleviation programmes. Whenever the District Panchayats are not in existence or are not functional, the DRDAs work under the Collector/District Magistrate/Deputy Commissioner, as the case may be. The Central Government are making concerted efforts to the effect that Panchayat elections are held in all States/Union territories regularly.

6.8 Asked further whether it is also a fact that some of these State Governments are again trying to revive the DRDAs, the Government replied that the District Rural Development Agency (DRDA) has traditionally been the principal organ at the District level to oversee the implementation of different anti-poverty programmes. As per the DRDA Administration guidelines, DRDAs or DRDA Cells have been set up in all the States. At present there are 571 DRDAs/DRDA Cell. In Sikkim, State Rural Development Agency (SRDA) has been set up at the State level and is fulfilling the role of the DRDAs. The States wherein DRDAs have been merged with District Panchayats and a separate "DRDA Cell" has been created in the District Panchayats are Chhattisgarh,

Kerala, Madhya Pradesh, West Bengal and Karnataka. New DRDAs were not created as the work was being done by District Panchayats but the DRDA Cells have always been there.

6.9 Regarding any study undertaken by Government about parallel bodies that are functioning in different States and the extent to which the functioning of these parallel bodies is adversely affecting the working/implementation of the related provisions contained in Part IX, the Committee were informed that the Central Government have not done any study in respect of parallel bodies that are functioning in different States. The parallel bodies in various States may be broadly classified into two categories. The first category created in the pre-73rd Constitution Amendment includes those bodies namely, Joint Forest Management and Water User Groups. The second category created in the post-Amendment period came into being like the Expert Committees in Kerala, the Janmabhoomi in Andhra Pradesh, the Vigilance Committee in Himachal Pradesh, the Gram Vikas Samiti in Haryana and the Gram Swaraj in Madhya Pradesh.

6.10 It has been observed that the functional domain of these parallel bodies overlaps with that of the Panchayats or these bodies are presently functioning in such a way as to hinder/support the decision making powers/effective functioning of the Panchayats in areas which are constitutionally demarcated to Panchayats by Seventy-third Amendment Act. The Eleventh Schedule specifies that minor irrigation, water management and watershed development and minor forest produce should come under the purview of Panchayats while these works are being handled in some States by Water User Groups and Joint Forest Management Committees. The Expert Committee formed in Kerela as part of a novel mechanism for the People's Plan Campaign are undermining the decision making powers of the Gram Sabha and Gram Panchayat. In the Janmabhoomi Programme, there are two parallel Gram Sabhas conducted by the Government Officials as well as by Gram Panchayats undermining the constitutional validity of Gram Sabha. Though Chairpersons of Gram Panchayats preside over the Janmabhoomi Gram Sabha, they remain mere spectators to watch the proceedings while Government officials are actual actors. Though the system of social audit introduced through the Vigilance Committee in Himachal Pradesh is appreciable, but they consider themselves as a superior body to the Panchayat by constantly looking out for loopholes or mistakes in the functioning of Panchayats. The major function of the Gram Vikas Samiti in Haryana relates to the implementation and supervision of construction related work which coincides with what has been legally entrusted to Panchayats in that State and has created another implementing agency over the Panchayats. Similarly, the Gram Sabha under the Gram Swaraj in Madhya Pradesh will constitute eight Standing Committees to formulate plan for overall development of the village and most of the functions of Gram Panchayats will be done through these Committees.

6.11 Regarding the steps proposed to be contemplated to bring the functioning of Panchayats in conformity with the Constitutional, provisions the Committee were apprised that the Panchayats are Constitutionally mandated bodies and hence their sustainability is legally ensured. The 'parallel bodies' are created by issue of Government orders and they may become defunct once the ruling Government changes

resulting wastage of resource and energy. The elected Members of Panchayats are present throughout to coordinate and facilitate the whole process of planning, implementation, monitoring and maintenance of assets created.

6.12 As per the information received from the Department of Rural Development sound mechanism to ensure coordination between DRDAs and three tiers of Panchayats is lacking. Their observation is given as below:

> "No provision has been made in the State PR Acts to ensure the coordination between DRDAs and three tiers of Panchayats. However, some States have merged DRDAs with the District Panchayats to facilitate better coordination in implementation of rural development works. In some cases, the Chairman of District Panchayats has been made the Chairperson of DRDAs. DRDAs and District Panchayats have been merged in the States/Union territories *viz.* Karnataka, Kerala, Madhya Pradesh, West Bengal and Chhattisgarh."

6.13 The Committee find that not only pre-Part IX parallel bodies like DRDAs, joint forest management and water user groups are working, but certain post-amendment parallel bodies like Expert Committee in Kerala and Janmabhoomi in Andhra Pradesh are also there. They also find that although the Department agrees that these parallel bodies are undermining the decision making powers of Gram Sabha and Gram Panchayat in respective States, nothing concrete has been done to remedy the situation. The Committee have been recommending repeatedly that the practice of creating parallel bodies and parallel programmes be discouraged. But, nothing concrete seems to have been done in this regard. The Committee also note that the Task Force in their Report have stressed for creation of Standing Committees in the Panchayats at each level for specific and important subjects. Besides, they have been recommending for an inter tier Standing Committee on Monitoring and Supervision. The Committee, therefore strongly recommend that all the parallel bodies and programmes working in various States should be brought under the overall monitoring and supervision of Panchayats at the appropriate level.

6.14 As emphasised by the Task Force, the Committee stress the importance of establishing Standing and Adhoc Committees of the Panchayat at each level. Corruption in the Panchyat at all levels has become rampant in most States, because chairpersons are not responsible to the Committees of the Panchayats or to the general body of the Panchayats or to the Gram Sabha. In association with the bureaucracy, chairpersons have tended to usurp the functions, which properly belong to the Panchayats as a whole. The Committee, therefore, stress the crucial importance of establishing Standing and Adhoc Committees of the Panchayats at each level so that proposals are processed by such Committees and then brought before the general body of the Panchayat for approval before, during and after the execution of works. Utilisation certificates should be issued by the Panchayats as a whole and, at the village level, after securing the endorsement of the Gram Sabhas. It is only if this is done that the Gram Sabhas will have functional relevance, the elected members of the Panchayats will have real and meaningful work to do, and

the chairpersons will operate as chairpersons-in-council, thus reducing, if not always completely eliminating, the scope for nepotism and corruption.

6.15 The Committee have been repeatedly recommending for the merger of DRDA with Zila Parishad. Inspite of that, they find that the approach of the Union Ministry is to strengthen the DRDAs. They also find that only five States i.e. Chhattisgarh, Kerala, Madhya Pradesh, West Bengal and Karnataka could achieve the objective of merging DRDA with District Panchayat. In all other States, DRDA is functioning separately, and as informed by the Ministry, at present there are 571 DRDAs/DRDA cells. They also note from information provided by the Department that there is no provision in the State Panchayati Raj Acts to ensure coordination between DRDAs and the three tiers of the Panchayats. In this scenario, the Committee disapprove of the way the Union Government are encouraging the role of DRDA administration. They find that with the enactment of Part IX, pre Part IX arrangement of DRDA has become obsolescent and needs to be ended, especially as the DRDA is inimical to the fundamental objective of Part IX which is the establishment of institutions of self-government. The Committee strongly recommend that in the interests of effective Panchayati Raj, as envisaged in the Constitution, DRDAs be disbanded and merged with District Panchayats, with the Chairperson of District Panchayat as Chairperson of the merged DRDA. Moreover, *pari passu* with the clarification of which functions, functionaries and finances are to be devolved to which tier of the Panchayati Raj system, Intermediate and Village level bodies with duties parallel to those of the existing DRDAs would need to be set up at these levels, so that State and Central finances are channeled to the appropriate tier and not necessarily concentrated in the merged DRDA at the District Panchayat level.

(b) <u>Involvement of NGOs and other voluntary agencies</u>

6.16 On being asked as to whether any guidelines have been issued by the Central Government to involve NGOs and coordinate their activities with those of Panchayats while implementing the different tasks assigned to them, the Government have replied that no such guidelines have been issued.

6.17 As per the written note, institutions that are in functional conflict with the structures envisaged under Part IX of the Constitution are that most of the State/Centrally Sponsored Schemes as well as States schemes are being implemented through some or other kind of Self Help Groups or NGOs. Except schemes, which need technical expertise, all such schemes should be implemented through PRIs. Those Self Help Groups already created should be placed under the supervision of Panchayats. If any Centrally Sponsored Scheme is being implemented by an NGO, such scheme should be implemented under close supervision of Panchayats. For the remaining schemes, which require technical expertise to handle, beneficiaries should be selected by Panchayats. Regarding a thought given by the Government to merge such institutions to bring about harmonious integration and allow the Panchayats to function effectively, the Committee were apprised that from time to time, various Ministries/Departments of the Government

of India have been requested to ensure involvement of Panchayati Raj Institutions in the implementation of Central schemes/Centrally sponsored schemes.

6.18 The Committee find that as per the Government's view, the role of NGOs is in functional conflict with the structures envisaged under Part IX. Although the Committee agree that in spirit, all the welfare schemes should be implemented through Panchayati Raj Institutions, they do not underestimate the role played by NGOs in effective implementation of the different schemes. They, therefore, recommend that some mechanism should be evolved for getting assistance from NGOs by the Panchayats specifically in technical matters like preparation of plans etc. The Committee are of the view that involvement of NGOs in the implementation of various schemes for economic development/social justice can be resorted to under strict supervision and control of PRIs. Technical expertise, infrastructure and resources could be of great help in certain cases if Voluntary Agencies/NGOs are involved but these agencies in no case should undermine the authority of PRIs, nor preclude the evolution of PRIs as self governing institutions. The Committee would also expect the Union Government to think over this aspect seriously and issue necessary guidelines in this regard. Schemes which need technical expertise should be clearly demarcated but the Panchayat should have the upper hand in the involvement of NGOs /Voluntary Agencies wherever necessary. The Committee believe that the most effective form of NGOs involvement would be in generally arousing awareness of the rights and duties of the Panchayats as well as in mobilising the mass participation in meetings of the Gram Sabha.

CHAPTER VII

INVOLVEMENT OF MPs AND MLAs IN PANCHYATS

The Union Ministry of Rural Development provided the following information:

"According to article 243C(3) of the Constitution, the State Legislature can make laws to provide for representation of Chairperson of Gram Panchayats and Intermediate Panchayats to the Intermediate Panchayats and District Panchayats respectively and representation of MPs and MLAs in Intermediate level Panchayat and District Panchayat. MPs and MLAs can join the meetings of such Panchayats and have right to vote in the deliberation of meetings of such Panchayats."

7.2 Further the role of MPs and MLAs on the issue of decentralisation of power in pursuance of Part IX of the Constitution as provided by the Ministry is given below:

"MPs and MLAs have major role to play in the process of decentralisation of power in pursuance of Part IX of the Constitution." The Constitution (Seventy-third Amendment) Act envisages democratic decentralisation from the Centre to the State and from the State to the local bodies at the grassroots level. It requires a mass movement in favour of it – both inside and outside of the Parliament/State Assemblies. The success of Panchayati Raj System hinges on public awareness and enhanced capacity building of Panchayat representatives. MPs/MLAs with their vast experience in the field may join in the campaign of public awareness and share their valuable experiences in the meetings of Intermediate and District Panchayats for efficient functioning of PRIs."

7.3 The Committee find that although the Government agree to the crucial role to be played by MPs and MLAs in the process of decentralisation of powers in pursuance of Part IX of the Constitution, serious attention is not being paid at the State level to involve MPs and MLAs in different welfare schemes. The Committee have time and again been stressing for the specific role of MPs and MLAs in monitoring of different Centrally Sponsored Schemes, yet they find that the meetings of DRDAs are generally being held at the time when the MPs are not available. In this scenario, they recommend that a serious thought should be given to involve MPs and MLAs at the higher levels of Panchayats i.e., Intermediate and District level Panchayats so that they can play an effective role in monitoring the activities being undertaken by these Institutions.

CHAPTER VIII

ROLE OF MASSES AND MEDIA

Educating the masses about the role and responsibilities of Panchayats

The Committee were apprised by the Department about the various measures taken to educate the rural masses about the role and responsibilities of Panchayats in the respective States so as to ensure maximum benefit to them. Educating the rural masses about the role and responsibilities of Panchayats is an enormous task and a continuing process. While it is the responsibility of the States, this Ministry has been taking several steps to create public awareness through print and audio-visual media. The Ministry published posters depicting the powers of the Gram Sabha and 30-45 seconds video-spots have been telecast over Doordarshan on the powers of Gram Sabha under the Constitutional provisions of the Seventy-third Amendment.

Awareness building

8.2 On being asked about the initiatives taken by the Union and the State Governments to create awareness amongst the rural people about the role and responsibilities of Panchayats in the developmental work at the village level, etc., the Committee were apprised that in the implementation of most of the programmes of the Ministry, crucial role has been envisaged for Panchayati Raj Institutions. Suitable IEC activities through most of the available modes of communication such as visual, audio and print media are undertaken to create awareness about nature and content of Rural Development Programmes including role and responsibilities of the Panchayats in the implementation of these programmes. The Ministry have adopted a four-pronged strategy aimed at creating awareness about the programmes, promoting peoples' partnership, bringing in transparency in the implementation of the programmes and also enhancing accountability and social audit. In pursuance to four-pronged strategy, intensive IEC campaign over radio and television and also through print media have been undertaken during the year 2001-02. The State Governments/Union territory Administrations have been advised to ensure the conducting of meetings of Gram Sabhas in each quarter of a year and strive for the maximum participation of the people, particularly the women and the weaker sections of society. It was also advised to display the details of the programmes that are being implemented in the Gram Panchayats and the number of persons being benefited.

8.3 The State Government are organising need based Training Programmes/Workshops/Seminars so as to sensitize elected Members of Panchayats about their roles and responsibilities in development work and encourage their participation in the decision making process. Necessary skills related to planning and implementation of various development programmes/schemes, developing leadership qualities, orientation about team-work, etc., are also being imparted to the elected representatives of Panchayats. The Electronic Media like television and radio and the print media like newspapers, news letters, booklets/pamphlets and slogans/posters are

being used for information and education of rural people in general and Panchayat functionaries in particular, about the roles and responsibilities of Panchayats in rural development work. However, the low level of literacy among rural people inhibits the penetration of print media in rural areas. To avoid this problem, door-to-door contacts and social mobilization have been found most effective and useful method in this regard by some States.

8.4 The Committee note that enlightenment of rural masses about the different welfare, State and Centrally Sponsored Schemes as well as the importance of Gram Sabha can play a very crucial role in monitoring all the different programmes for which crores of rupees are being allocated annually by the Central Government as well as the State Governments. How to make the public aware about all this is perhaps the biggest challenge. They also appreciate the fact that the print media in rural areas cannot be useful where there is a low level of literacy among rural people. They feel that important mass awareness building programmes through distance education training schemes such as have been prepared by IGNOU and the rest need to be organised at different levels to communicate to the people the importance of Panchayats. Besides, radio and Doordarshan can also play a crucial role in this regard. As has been given in detail in Chapter related to Gram Sabha, the meetings of Gram Sabha, if conducted properly can itself be a major forum to make the people aware about their responsibilities and duties towards society and making them aware about the different welfare schemes being run by the Central as well as State Governments. Besides, transparency in the implementation of the schemes by way of making people aware like putting the Bill Boards at the sites of different schemes indicating the cost, the agency which has funded the project, the date of starting and the likely date of completion etc. can be the best method to involve the public/to make the public aware about the functioning of the Panchayats.

CHAPTER IX

DEFINITIONS

The article 243 provides as below:
"In this Part, unless the context otherwise requires-

(a) "district" means a district in a State;

(b) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayats at the village level;
(c) "intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part:
(d) "Panchayat" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;
(e) "Panchayat area" means the territorial area of a Panchayat;
(f) "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
(g) "village" means a village specified by the Government by public notification to be a village for the purposes of this Part and includes a group of villages so specified."

The Government has admitted that there are variations in the interpretation of different definitions as given in article 243 of the Constitution in various State laws and different courts regarding 'district', 'gram sabha' etc.

9.2 As regards "District", most of States have defined the same as a revenue district, while some State Panchayati Raj Acts do not mention it. The information regarding the average size of Districts in geographic and demographic terms, as has been made available to the Committee relating to 19 States and five Union territories only, is given in *Appendix XV*. As can be seen therefrom, the said information relating to the remaining nine States and two Union territories was either not available with the Ministry or were missing. It could also be seen that there is huge variation in geographic and demographic terms in the size of Districts in different States/Union territories.

9.3 Further, most of the State Panchayati Raj Acts have defined "Gram Sabha" as "all persons whose names are included in the electoral roll for a village". The definition of "Intermediate level" does not find place in several State Acts. The State Panchayati Raj Acts have defined "Panchayat" as Village Panchayat, Intermediate Panchayat and District Panchayat, which are to be established under the State Act for rural areas. "Panchayat Area" has been defined in the State Panchayati Raj Acts as the territorial area of a Panchayat. Most of the States/Union territories have adopted a definition of "population" as the population ascertained at the last preceding Census of which relevant figures have been published, whereas some State Acts do not mention it. As regards "village", most

of the State Acts define it as a revenue village or any local area declared as 'village' for the purposes of the State Regulation.

9.4 The sub-Committee during their study-visit to Hyderabad discussed the various provisions of Part IX with the representatives of Panchayati Raj Institutions. They were informed that there is no rationalisation of population of Gram Sabha and Gram Panchayats. Whereas, a Gram Panchayat has a population as big as seventy thousand, in Scheduled Areas the population is less than five hundred.

9.5 When asked as to whether the Government are aware of the problems being faced by the various State Governments due to huge population in respective Panchayats, the Department responded as below:

> "The State Legislatures have been vested with powers to demarcate constituency for each Panchayat. It has been left to the States/Union territories to complete the process of delimitation of constituency of each Panchayat before the process of Panchayat elections starts. The Union Government has not fixed any lower or upper limit of population in respect of any Panchayat."

9.6 As to the setting of some norms for the ideal population of a Village Panchayat, the Committee were apprised that it would not be advisable to fix any norm for the ideal population of a Village Panchayat. The population of Village Panchayats varies from State to State and even region to region within a State due to geographic and demographic reasons.

9.7 On being asked whether the State Governments have given different definitions to the Gram Sabha in terms of the geographical area covered, the information as given is furnished as below:

> "According to article 243 *(b)* of the Constitution, Gram Sabha means a body consisting of persons registered in the electoral rolls relating to a village comprised within the areas of Panchayat at the village level. However, there is a significant difference in practice whether the Gram Sabha is coterminous with the Panchayat, Revenue Village, Ward or settlement. In Andhra Pradesh and Karnataka and Madhya Pradesh, the Gram Sabha is defined in relation to revenue village, whereas in Maharashtra, West Bengal and Rajasthan the unit is much larger and coterminous with the Village Panchayat. In Kerala, the size of a Village Panchayats range from 10,000 to 70,000 people. It is obvious that participatory democracy of the kind that is envisaged for a Gram Sabha would be impossible for a Village Panchayat. The Kerala Panchayati Raj Act, 1994, therefore, provides for the constitution of Gram Sabha separately for every Ward (Constituency). However, West Bengal, Rajasthan and Orissa have recognised smaller units constituted at the level of the constituency, called the Gram Sansad/Ward Sabha/Palli Sansad for better participatory democracy at the grass roots level. Gradually many States appear to be veering towards a smaller face-to-face community units, whatever their name may be, for the exercise of direct democracy."

9.8 The Government of Kerala has suggested certain amendments to strengthen the process of decentralisation. One such proposed amendment concerns delimitation of wards. They have stated that the Constitution of India should have an enabling provision for the States to allow them to have unchanged boundaries for wards for long period. The Government of Kerala stated that the Constitution now provides for delimitation of wards in local Governments after every Census which would create heavy administrative works with Gram Sabhas and Wards developing their own identities, frequent changes of work boundaries could adversely affect their effective role in governance, in view of which, it has been suggested that, in the Constitution, there may be an enabling provision for the State to allow it to have unchanged boundaries for Wards for long periods.

9.9 The States are required to re-calculate the number of seats in a Panchayat after each Census, due to increase in population and, consequently, the boundaries of territorial constituencies in the Panchayat may also have to be changed, as provided under article 243C of the Constitution. Since this matter involves interpretation of Constitutional provision, the same has been referred to the Ministry of Law, Justice and Company Affairs for their opinion in this regard.

9.10 The Committee note as accepted by the Government that the definitions as given in article 243 are open to varied interpretations. Too much flexibility in interpretation may defeat the very purpose of definition. As such the Committee would like the Government to ponder over the definitions and make them as clear as possible so that there is no confusion at any level, particularly concerning Gram Sabha and Gram Panchayat, the definition of which should be more pronounced. The Committee during interaction with the Panchayati Raj Institutions and experts were informed that there is no rationalisation of population of Gram Sabha and Gram Panchayat. They note that sometimes the size of Village Panchayat and Gram Sabha is so big that the purpose of participatory democracy of the kind that is envisaged for a Gram Sabha is not possible as has been admitted by the Department in its written note. The Committee would therefore, like to recommend that the size of a Village Panchayat and Gram Sabha be fixed at a level that would facilitate the democratic participation by all voters. Besides, where for any reason the size of the Gram Sabha appears too large for effective democratic participation, possibilities for establishment of subsidiary Sabhas be explored at the ward/booth level.

9.11 The Committee further find that the Government of Kerala have suggested that the Constitution of India should have enabling provision for the States to allow them to have unchanged boundaries for wards for long period. They also note that the matter has been referred to the Central Ministry of Law, Justice and Company affairs to seek their opinion in this regard. The Committee would like to be apprised of the present position on the said suggestion of the Kerala Government.

CHAPTER X
DISTRICT PLANNING COMMITTEES

Article 243ZD of the Constitution provides as below:

"(1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to---

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled;

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen;

(3) Every District Planning Committee shall, in preparing the draft development plan,-

(a) have regard to---

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning committee shall forward the development plan, as recommended by such Committee, to the Government of the State."

10.2 The status of composition of DPC in respective States has been given in *Appendix-XVI.* It could be seen therefrom that eleven States, namely Haryana (14 Districts), Karnataka, Kerala, Orissa (11 districts), Madhya Pradesh, Manipur, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh and West Bengal and Union territories, namely Andaman & Nicobar Islands, Lakshadweep and Dadra & Nagar Haveli have taken action to constitute District Planning Committees (DPCs). In Tamil Nadu, operational orders for DPCs are yet to be issued. In several States, DPCs are being chaired by members of

the State Government which is contrary to the spirit of Constitution (Seventy-fourth Amendment) Act.

10.3 When asked as to whether the Panchayats at Village and Intermediate levels are getting adequate representations in the DPCs already constituted in certain States and if not, what steps have been/are being taken to give representation to these levels of Panchayats, as mandated under clause (2) (b) of article 243ZD, the Committee were informed that there is no Constitutional provision for representation of the members of Intermediate Panchayats and Gram Panchayats in the District Planning Committees(DPCs). Regarding the information as to whether the local experts are getting representation in the DPCs already constituted in certain States, the Government have replied that information is being collected from States and will be furnished later. The Government also showed its inability to explain as to why all the States have not been able to constitute DPCs as mandated in the 74th Amendment Act. The Committee were informed that the information is being collected from States and will be furnished later.

10.4 Regarding the direction by the Government to the States to make DPCs operational in a given time frame, the Government have replied that the State Governments and the Union territory Administrations are being advised from time to time to constitute DPCs. In the Conference of State Ministers in-charge of Panchayati Raj held in July, 2001 at New Delhi, it was resolved that DPCs would be constituted by all States/Union Territories by 31st December, 2001. The State Governments/Union territory Administrations have been requested to intimate the action taken in this regard.

10.5 When the Committee wanted to know as to whether it is a fact that DPCs are being chaired by Ministers in the State Government and the States where such a practice is prevailing, they were informed that DPCs are being chaired by the Ministers of the State Governments in the States of Chhattisgarh, Madhya Pradesh, Orissa and Uttar Pradesh. Asked further as to what action has been taken against such States violating Constitutional norms, the Committee were apprised that according to article 243ZD (2) *(d)* of the Constitution, the State Legislature may, by law, make provision with respect to the manner in which the Chairpersons of DPCs shall be chosen. The States who have made Ministers in the State Government as Chairpersons of DPCs have not violated any mandatory provision of the Constitution and hence no action has been taken against such State Governments. However, the Chief Ministers of States and the Administrators of Union territories have been informed that holding the offices of Chairpersons of DPCs by Ministers of States/Union territories is against the spirit of the Constitution (Seventy-third and Seventy-fourth) Amendment Acts. The States/Union territories were advised that the Chairperson of District Panchayat should be made Chairperson of DPC.

10.6 Asked as to whether any guidelines have so far been issued by the Central Government in this regard, the Committee were informed that based on the recommendations of the National Consultation on District Planning Committee and Metropolitan Development Committee organised by National Institute of Rural Development at Hyderabad on 19th September, 1997, draft guidelines for implementation of the mandatory provisions regarding District and Metropolitan Planning Committees were prepared and circulated to the States/Union territories by the Ministry of Urban

Development and Poverty Alleviation seeking their comments. However, on 30th September, 1998, the Ministry of Urban Development and Poverty Alleviation advised the States/Union territories that if the draft guidelines were by and large appropriate and would adequately serve the purpose of operationalisation of the mandatory provisions regarding DPCs, the same could be adopted with such modifications/additions as the State Governments deemed proper.

The draft guidelines outlined the composition of DPCs as under:-

(h) In addition to four-fifths elected members from amongst District Panchayats and Municipalities, representation of specialists in Spatial Planning, Engineering, Environment, Finance and Administration and representation of NGOs/Self Help Groups, Private Sector, etc. may be provided to DPCs, limiting total number of Members to 30.

(ii) MPs and MLAs may be permanent invitees to DPCs.

(iii) Officers from line Department at District Level may participate as invitees.

(iv) The Chairperson of District Panchayat may be the Chairperson of DPC and the Vice-Chairperson may be elected from the urban segment.

(v) CEO/DDO/District Officer responsible for the coordination of development activities in the district may be the member Secretary of the DPC.

(vi) The District Planning and Development Committees, wherever it exists, may be merged with the constitutionally mandated DPC.

(vii) The existing District Planning Cell may be brought under the DPC including the district unit of NIC.

(viii) Considering the need to ensure parity between urban and rural areas in representations to the DPC, the State Election Commission may supervise elections of Members of DPC.

10.7 The Government of Tamil Nadu and Kerala gave some suggestions regarding District Planning Committees.

- The Government of Tamil Nadu have suggested that since grass-root planning is contemplated, Chairpersons of the Panchayats at the Intermediate level should be made member of the District Planning Committees.
- The Government of Kerala has suggested that there is a need to give representation to Village Panchayats and Block Panchayats in the District Planning Committees, i.e. the rural membership should be divided equally among the three tiers of Panchayats.

On these suggestions, the concerned Union Ministry replied that the concept of District Planning Committee was introduced in the Constitution vide the Constitution (Seventy-fourth Amendment) Act, 1992 which relates to local bodies in urban areas. The States can provide for representation of a certain percentage of Chairpersons from the lower tiers of Panchyats on the DPC. If all the Chairpersons of Gram Panchayats and Intermediate Panchayats are nominated as Member to the District Planning Committee, these bodies would be liable to become very unwieldy.

10.8 As this matter also relates to the Ministry of Urban Development, that Ministry has been requested to take a further view in this regard.

- The Government of Kerala further suggested that it would be better to have an elected District Council representing both the urban and rural areas, instead of a District Panchayat covering rural areas alone.

  The Ministry responded by saying that these two institutions have different functions/duties to perform. The District Panchayat is a constitutionally elected body and has a distinct role to play in development work which cannot be handled by the District Planning Committee. On the other hand, the District Planning Committee is entrusted with quite different functions. Therefore, the Ministry of Rural Development do not find it feasible to accept the proposal of merging of District Panchayats with District Planning Committes.

10.9 The Committee find that there are a number of States where District Planning Committees have not been constituted so far in accordance with the provisions of article 243ZD. They take serious view of it and feel that this amounts to serious infringement of key Constitutional requirements. They urge the Union Government to ensure that in all States/Union territories, the District Planning Committees are constituted within a set time frame.

10.10 The Committee feel that planning is required to be undertaken at every tier of the Panchayati Raj System, not at the level of the District Planning Committee (DPC) alone. The very wording of article 243ZD, dealing with the District Planning Committee, says the DPC is to consolidate the plans prepared by the Panchayats. They, therefore, recommend that the annual plans and Five Year Plans should be prepared by each of the three tiers of Panchyati Raj Institutions as well as the Municipalities and, thereafter, be consolidated at the District level by the District Planning Committees.

10.11 The Committee further note that different tiers of Panchayat need technical assistance for preparation of plans. In this regard, they recommend that local NGOs, educational institutions, especially college faculties, legal professionals can play a crucial role in facilitating scientific planning at all these levels of the Panchayati Raj system. Besides, the services of retired bureaucrats, technocrats could also be utilised by the different tiers of Panchayats in this regard. How and when the services of the aforesaid professionals could be utilised for planning should be examined by the Union Government, in consultation with States and the modalities of their functioning may be worked out.

10.12 The Committee further note that in some of the States, District Planning Committees are being chaired by Ministers in the State Government. They also find that as per article 243ZD (2)*(d)*, the matter regarding the manner in which the Chairpersons of DPC shall be chosen has been left to the respective State Governments. They note that a State Minister chairing the DPC is against the spirit of the Constitution (Seventy-third and Seventy-fourth) Amendments. In view of this, they would like that the respective State Governments where the practice of Minister chairing District Planning Committees is prevalent should be advised in

this regard. Moreover, Parallel/Planning Bodies to the District Planning Committees, as set out under article 243ZD, should not be established.

10.13 The Committee further note that the Ministry of Urban Development and Poverty Alleviation had circulated the draft guidelines to the States/Union territories giving some advice about the constitution of District Planning Committees. The Committee would like that the Ministry of Urban Development and Poverty Alleviation pursue further with the State Governments so that the necessary suggestions given in the said guidelines are scrupulously followed by the State/Union territory Governments.

CHAPTER XI

ROLE OF WOMEN

Effective participation of women in Panchayats

Part IX of the Constitution prescribes mandatory provisions for reservation of not less than 1/3 seats in Panchayats for women. As per the written note of the Government, the steps so far being initiated by the Central as well as State Governments to ensure effective participation of women in Panchayats are as below:

> "There are 2,32,278 women members in Panchayats at village level, 5905 women in Panchayat at Intermediate level and 499 women in Panchayats at District level. Some of the initial inhibiting factors for the failure of leadership in women representatives are rigid social customs, lack of comprehensive understanding of roles and responsibilities, lack of self confidence, illiteracy, lack of family/community support, lack of support of Panchayat members divided on class, caste and gender lines and indifferent attitude of Government officials. "

11.2 On a query as to whether the Government are satisfied with the level of participation of women in Panchayati Raj Institutions in different States and Union territories and the steps proposed by the Government to increase women's participation at all levels of Panchayats, the Committee were informed that:

> "By and large, women are standing up to the challenges and establishing their positions as leaders in all the States. They have proved to be very effective in mobilising community support and raising important issues at both Gram Panchayat and Gram Sabha meetings. In some cases it has been observed that the participation of people in Gram Sabha meetings conducted by women is higher than in meetings conducted by men. Women members have also successfully mobilised the support of the mahila mandals which are active in their areas and in that process they are succeeding in to getting them actively participate in the decision making process. Women members are attending all the training programmes and acquiring the necessary skills to discharge their role efficiently. Panchayati Raj is a State subject. Empowering the Panchayats, its members, especially the women members is the responsibility of the States. However, the Union Government taking note of the fact that it is for the first time that women have been elected to Panchayats, have advised the States/Union Territories to take special steps for capacity building of women members and Chairpersons of Panchayats to make them capable of shouldering responsbilities pertaining to their respective offices. The State Government have also been advised:
>
> - to ensure that meeting of Gram Panchayats are attended only by those who are so elected and by no one else (i.e., husband, brother, father or any other category of relatives should not be allowed to participate in such meetings);
> - to issue necessary guidelines to Panchayats at all levels to ensure that women members of PRIS are not reduced to mere proxies or figure heads. The State Governments were also advised to generate public awareness and to ensure that there is no discrimination on grounds of gender."

11.3 When asked about the guidelines issued to the State Governments to take necessary steps to ensure presence of women in the meetings of Gram Sabhas, the Government have replied that while no such guidelines for conducting of Gram Sabha meetings have been issued by this Ministry, the State Governments have been advised to ensure participation of weaker sections including women in Gram Sabha.

11.4 The Government have noticed the increasing trend of use of no-confidence motion against the women Pradhans at the village, taluka and district levels violating the letter and spirit of the Constitution (Seventy-third Amendment) Act. The Committee were informed that reports on dislodging of women chairpersons (and their replacement with men) in Uttar Pradesh were published in some newspapers. To check the misuse of the provision of 'No Confidence Motion' against Chairpersons of Panchayats and to afford stability to the elected members, the Government of Uttar Pradesh amended the State Panchayat Raj Act to the effect that a meeting for the removal of a Chairpersons of a Gram Panchayat should not be convened within a period of two years of his/her election, that a meeting specially for this purpose should be convened by giving at least 15 days notice in advnace and that the 'No Confidence Motion' should be passed by a majority of 2/3rd of all the members. It was reported in the newspapers that 'No Confidence Motion' was moved against one woman Chairperson of Gram Panchayats in Madhya Pradesh. However, the motion against her was defeated. While no direction has been issued by the Union Government in this behalf, the concerned State Governments are advised to initiate appropriate action against misuse of 'No Confidence Motion'.

11.5 The Committee feel that reservations for women has opened the door to revolutionary changes of a political, social and cultural nature. India can truly be proud of being the first and only country in the world to have empowered through free and fair elections, more than one million women who are participating in the Panchayats. The Committee feel that there is still some way to go in changing the apparent empowerment of women into a real and genuine empowerment. To this end, the Committee recommend that:

- **(i) Reservation for women should be extended to at least two terms.**
- **(ii) No-confidence motions against women Chairpersons should not be allowed to be tabled more than once in two years, no oftener, so as to end the widespread harassment of women Chairpersons through threats of No-confidence motions, which the Committee find, are more in vogue with respect to women than men Chairpersons.**
- **(iii) If a woman Chairperson or a member is removed for any reason whatsoever, she must be replaced by another woman of the same category, not by a man, whether in full or acting charge.**

CHAPTER XII

TRAINING OF FUNCTIONARIES AND OFFICERS OF PANCHAYATI RAJ INSTITUTIONS

Capable and trained functionaries are required for the successful functioning of Panchayati Raj Institutions at the grassroot level. On the query whether the Government have drawn up any model training programme for elected members of Panchayati Raj Institutions in States in a time bound manner and if not, how the States are training and creating awareness amongst the Panchayati Raj Institution members, the Government have replied that the State Governments/Union territory Administrations are required to work out systematic and comprehensive training programmes to impart orientation programme to elected representatives Panchayats and Panchayat functionaries. The Ministry of Rural Development extend limited financial assistance to the States in their effort to train and create awareness among the PRI elected members and functionaries. The States are conducting training programmes for them through their State Institute of Rural Development. The Ministry have also been providing financial assistance through the Council for Advancement of People's Action & Rural Technology (CAPART) to the non-Governmental organisations with proven track record for conducting training and awareness generation programmes on Panchayati Raj. Besides, UNDP, UNICEF and other International agencies are also providing funds to the reputed NGOs for imparting training and creating awareness amongst the members of Panchayati Raj Institutions.

As per the information furnished by the Government, Rs.8.80 crore were allocated for training of Panchayati Raj Institution functionaries during the Eighth Plan. The position of actual release is as under:

> "During the Eighth Plan period an amount of Rs.8.80 crore was allocated to 'Panchayat Development and Training'. Out of this allocated amount, funds were released to the NGOs/Institutions for Research, Action Research and Training and to the State Governments for imparting training to the members of PRIs. Funds released to some Institutions, namely IGNOU, LBSNNA, NIRD, etc. were not meant for any particular State. In view of this, funds released during the Eighth Plan period year-wise to the Institutions as well as the State Governments are as given in *Appendix-XV*."

12.2 The Ninth Plan allocation (year-wise) for training of members of Panchayati Raj Institutions is as below:

During the Ninth Plan, an amount of Rs.12 crore was allocated for Panchayat Development and Training which includes grants-in-aid to Institutions as well as the State Governments. This Ministry has been providing funds to NGOs/Institutions for research action and to the States for imparting training to the elected representatives of PRIs and Panchayat functionaries. Annual Plan allocation for 'Panchayat Development

and Training' is now being earmarked annually. The year-wise break-up of allocation is given below:

(Rs. in crore)

Sl. No.	Financial Year	Amount allocated (Rs. in crore)	Grants to NGOs/Institutions (Rs. in crore)	Grants to States (Rs. in crore)
1.	1997-1998	3.00	2.00	1.00
2.	1998-1999	3.00	2.00	1.00
3.	1999-2000	3.00	2.00	1.00
4.	2000-2001	3.00	1.00	2.00
	Total	12.00	7.00	5.00

12.3 On being asked as to whether all the States have set up State Institutes of Rural Development to conduct training programme for Panchayati Raj Institution members and if not, what are the other agencies involved in this regard, the Government have replied that there are 25 State institutes of Rural Development set up in 25 States, which have requisite linkages with the National Institute of Rural Development, Hyderabad and the Extension Training Centres of their States so as to function in a hierarchy to serve the vital role of imparting training to the rural development functionaries. There are 88 Extension Training Centres for imparting training to village and block level rural development functionaries.

12.4 Asked further as to whether the Ministry has ever suggested to the States to have a separate cadre of employees to work at the Panchayat level, the Committee were informed that, based on the recommendations of the task force constituted in pursuance of recommendations of the conference of State Minister in-charge of Panchayati Raj held in July, 2001 at New Delhi, the Chief Ministers of States and Administrators of Union territories were advised on 11th October, 2001 as under:

> "An officer (if possible, equivalent to the district Collector) could be posted as the Chief Executive Officer for the district Panchayat, there may be a separate cadre for Panchayati Raj Institutions, with all Class-I posts being filled, on deputation basis, from the State Cadres and Class-II posts of the Panchayati Cadre by direct recruitment through the State Public Service Commission (or on deputation basis). As regards, Class-III and lower level posts, the recruitment could be at the regional/district levels through an independent Recruitment Board."

12.5 When asked as to whether the Government have ever thought of specifying the role of PRIs in natural calamities, the Government have replied that, the Government of India in the Ministry of Rural Development and UNDP have finalised a sub-programme on capacity building of Panchayati Raj, which aims at strengthening capacity of the Panchayati Raj training system. One of the main themes to be included in the training module is the disaster management by the Panchayats. The training modules for each State are yet to be finalised.

12.6 One expert who appeared before the Committee suggested that the distance education facilities available with IGNOU and with the State Open Universities should be used to conduct mass awareness building provisions.

12.7 The Committee are extremely concerned to learn that arrangements for the training of elected members of the Panchayats at different levels, and of the administrative and technical staff attached to the Panchayats, fall at present far short of requirements. The Committee recommend an exponential increase in the quantum of funds made available for such training as well as deep consideration to the overall training requirements of both elected members and Panchayat staff. Moreover, there is a special need to concentrate on training of the weaker sections and women. It has been brought to the notice of the Committee that the Indira Gandhi National Open University has evolved a multi-media model for extending training on a mass scale through the use of both traditional and innovative forms of mass communication. The Committee recommend this multi-media model to the attention of the authorities concerned. The Committee further urge that Doordarshan and AIR should take up the challenge of effectively training elected members and staff, especially representatives of the weaker sections and women, in the art of Panchayati Raj. The NGOs have a very vital role to play in regard to training and should receive financial assistance from CAPART to run training programmes.

12.8 The Committee find that sometimes rural women are hesitant to attend training programmes along with the men. They, therefore, recommend that separate training programmes should be arranged for such women participants. Besides, special care should be taken for imparting training to SC/ST and Backward Classes.

NEW DELHI
14 August, 2002
23 Sravana, 1924

ANANDRAO VITHOBA ADSUL
Chairman
Standing Committee on Urban and Rural Development

STATEMENT OF OBSERVATIONS/RECOMMENDATIONS

Sl.No.	Para	Observation/Recommendation
1	2	3
1.	2.19	The Committee find that pursuant to the enactment of the Constitution (Eighty-sixth Amendment) Bill, 1999, the State of Arunachal Pradesh has been exempted from making any provision for reservation of seats for Scheduled Castes in Panchayats. Though more than two years have passed since Arunachal Pradesh Panchayati Raj Act was enacted, the Arunachal Pradesh Government is yet to hold elections for the Panchayats. They also find that in case of the NCT of Delhi, the Ministry of Home Affairs did not support the decision of Delhi Government to suspend Delhi Panchayati Raj Act. They are, however, happy to note that NCT of Delhi have recently been considering the revival of Panchayati Raj system in Delhi. In the case of Pondicherry, although it has been reported that Panchayat elections would be held by December 2001, elections have not been held so far as stated by the Ministry. The Committee, therefore, urge the Government to persuade the State of Arunachal Pradesh, NCT of Delhi and Pondicherry to hold Panchayati Raj elections at the earliest so that the system of grassroot level democracy could be established/revived without further delay.
2.	2.20	The Committee find that several State Governments are not holding Panchayat elections before the expiry of the term of Panchayats, or postponing the same on one pretext or the other. Besides, the State Governments are frequently taking recourse to litigation on one ground or the other and thus postponing elections. The Committee find that holding of Panchayat elections is a mandatory provision in the Constitution and it is obligatory on the part of the State Government to ensure that the same is implemented in letter and spirit. It is also mandatory on the part of a State Government to hold elections to constitute the Panchayat before the expiry of its duration, i.e. five

		years from the date appointed for its first meeting. Article 243E (1) emphasises that no Panchayat will continue for longer than the specified period. Inspite of such clear and specific stipulations, the Committee find that there has been persistent flouting of such provisions by certain State Governments.
3.	2.21	The Committee observe that the primary duty to ensure strict compliance of the mandatory provisions of Part IX of the Constitution and to persuade the State Governments to conform in letter and spirit to the recommendatory provisions, rests with the Union Government. But they are concerned that even the mandatory provisions of Part IX are not being strictly implemented by the respective State Governments leave aside the recommendatory provisions. Whereas the State Governments are willfully flouting the Constitutional provisions, the Union Ministry have expressed their helplessness in persuading the State Governments to hold the Panchayat election in time. The Committee therefore, strongly recommend that the Government must find out ways and means so that the provisions of Part IX of the Constitution are followed in letter and spirit.
4.	2.22	The Committee find that so far as the question of reservation for Backward Classes in Panchayats is concerned, as per article 243D (6), the matter has been left to the discretion of the State Legislatures. As could be seen from the information furnished by the Department, the issue of reservation for Backward Classes has led to intensive litigations and is often used as an excuse for postponing elections to the Panchayats. Since the reservation for Backward classes is an enabling provision and State Legislatures are free to take their own decisions in this regard, the Committee recommend that the Government should bring the experiences of different States to the notice of all State Governments with a view to enable them to evolve suitable reservation system for the Backward classes which may enjoy a wide measure of consensus in the society, and should not come in the

		way of effective and timely implementation of Part IX.
5.	2.23	The Committee note that article 243E nowhere provides for postponing of elections in any circumstances. They also note that in a leading judgment, the Supreme Court ruled that the concerned States cannot be permitted to withhold elections to Panchayats except in case of genuine supervening difficulties such as unforeseen natural calamities in the State like flood, earthquake etc. or urgent situation prevailing in the State for which elections to the Panchayat cannot be held in time. The Committee while going through the information provided by the Department, find that the said ruling of the Supreme Court interpreting article 243E of the Constitution is being differently interpreted by the State Governments. The Committee are strongly of the view that since regular periodic elections, within the letter and spirit of the Constitutional provision lies at the very heart of the democratic process, the Central Government should secure a clear ruling from the Supreme Court about the meaning and scope of article 243E, so that elections are held within five years and jurisprudence clearly indicates the highly exceptional situations, if any, in which there may be a short postponement.
6.	2.24	The Committee further feel that there is a need for harmonizing and clarifying the body of jurisprudence arising out of the relatively recent introduction of Part IX, since some court judgments appear prima facie not to be consistent with other judgments. It is urged that such a process of harmonization and clarification be undertaken by the authority or authorities concerned.
7.	2.25	The Committee further note that most of the Central and State Acts need amendment in view of the powers conferred Constitutionally on the elected local bodies. They are of the view that the Central Government and the State Governments must establish appropriate review bodies to carefully examine the compatibility of pre-Part IX legislation with the new Constitutional provisions. This

exercise needs to be undertaken urgently within a time-bound framework. Possibly, the Law Commission might be entrusted with the initial responsibility of identifying the categories of Central and State legislations, which need to be so examined and acted upon.

8. 3.11 The overall aim of Part IX is to endow the Panchayats with such powers and responsibilities as may be necessary to enable them to function successfully as institutions of self-government, as per article 243G of the Constitution. State Legislatures have been empowered to endow Panchayats by law with such powers and authority as may be necessary to enable them to prepare plans for economic development and social justice and implement schemes for economic development and social justice, including those in relation to the matters contained in the Eleventh Schedule. The Committee, are, however, constrained to note that although more than nine years have passed since the Constitution (Seventy-third Amendment) Act was enacted, very few States seem to be serious about the implementation of said provision of Part IX. They further find that endowing Panchayats with certain functions is fruitful only if the Panchayats are equipped with the trained functionaries and adequate finances are also made available to them. Thus they note that Panchayats can fulfill their responsibility as institutions of self-government only if devolution is patterned on a nexus between the three Fs i.e. functions, functionaries and finances. The Committee are unhappy to note that very few States have linked the very important devolution of functions to the means of actualising such devolution through the devolution of functionaries and finances. Only one State, i.e. Karnataka has transferred the functions, functionaries and funds for all the 29 subjects enlisted in the Eleventh Schedule. Other States like Kerala and West Bengal are doing well. Yet it is really pathetic to note that several States/Uts have not yet transferred the funds *vis-à-vis* functions and functionaries, not even for a single subject to Panchayats. Further, the Committee find that there

		is lack of clarity about the tasks to be entrusted to different tiers of Panchayati Raj system.
9.	3.12	The Committee appreciate the efforts made by the Union Ministry of Rural Development in appointing a Task Force, which dealt with this subject in detail and prepared an Activity Mapping (*see Appendix VI)*. They also note that the State Governments/Union territories Administration have been advised to complete devolution of powers upon Panchayat by 31st March, 2002. They hope that the Activity Mapping prepared by the Task Force would be a model for the State Governments, and they would sincerely make efforts to ensure devolution of funds, functions and functionaries in the true spirit of the Constitution with the encouragement and support of the Centre.
10.	3.13	The Committee further note that the said Task Force has made several observations/recommendations on executive and managerial measures that are imperative for the successful functioning of grassroot governance. They hope that the State Governments would act in accordance with the pattern of functional capacity building of Panchayats as recommended by the Task Force which would result in empowering the Panchayats in the true spirit of the Constitution to enable these institutions to function as institutions of self-government.
11.	3.14	The Committee note that although it is the responsibility of the State Legislatures to endow the Panchayats with requisite powers and responsibilities in the true spirit of article 243G of the Constitution, the overall responsibility of monitoring the implementation of Part IX of the Constitution lies with the Union Ministry of Rural Development. They are constrained to note that even after the lapse of nine years of coming into force of the Constitution (Seventy-third Amendment) Act most of the States are yet to fully and conscientiously implement article 243G of the Constitution. They find that although the Union Ministry of Rural Development has set up different Departments to deal with its many functions,

responsibilities and schemes relating to poverty alleviation and rural development, all of which should be planned and implemented through the Panchayats under Article 243G read with Schedule Eleven, the Ministry has no separate Department overseeing the implementation of Part IX of the Constitution. Since monitoring the implementation of the Constitution is the central responsibility of the Government of India, and given the complex and detailed provisions of Part IX, the Committee recommend that the Union Ministry of Rural Development be reconstituted as the Union Ministry of Panchayats and Rural Development, which would include a Department of Panchayats to oversee the work of the other departments of the Ministry to ensure that the Ministry itself promotes the implementation of article 243G in letter and spirit besides working with State Governments to ensure that they do likewise. The Committee further recommends that the proposed Union Ministry of Panchayats and Rural Development submit an annual State of the Panchayats Report to Parliament to enable Parliament to effectively monitor the implementation of Part IX. The Committee do not accept the view of the present Department of Rural Development that a Ministry of Panchayats might "tend to more control from the Centre." The role of the Centre would not be to "control" implementation but monitor implementation to ensure that the objectives and basic principles of Part IX are being pursued in letter and spirit.

12. 3.19 The Committee find that one of the primary factors behind the enactment of 73rd Amendment Act was the lack of financial resources which stood in the way of the Panchayats to acquire the status and dignity of viable and responsive peoples' bodies. Devolution of functions without funds is not realistic and can never provide the required momentum to the self-governing bodies to act independently in a fruitful manner. However, quantum and nature of devolution cannot be uniform keeping in view the varied needs of each State, the resources available for mobilisation and the implementing machinery involved in the process

of mobilisation. The Committee agree with the Task Force's observation that keeping in view the federal character of the Indian Constitution and the divergence in the needs and functions of States, it may not be possible to set a rigid and uniform pattern of financial devolution to the Panchayats for all States. It is perhaps because of this, that the State Legislatures have been endowed with discretionary power to strengthen the finances of Panchayats. The Committee also agree that each State should give due consideration to certain principles in general while designing scheme of financial devolution for Panchayats (article 243H prescribes certain basic fundamentals). The State Legislatures, thus, have been given discretionary powers to strengthen the finances of Panchayats by arrangement of certain revenue powers and sharing of State revenues with Panchayats and payment of grants-in-aid. The Committee hope, as also observed by the Task Force, that State Legislatures will utilize the discretionary powers assigned to them in such a way that the same facilitate the transformation of the PRIs into wholesome, autonomous institutions of self-government.

13. 3.20 The Committee find that the Task Force has specified certain taxes which deserve to be shared by the State Governments with the Panchayats like professional tax, entertainment tax or revenue cess on land, motor vehicle tax etc. They have also suggested that professional tax, which is not being levied in some States, may be accepted by the State Governments concerned and the revenue proceeds thereof may be transferred to the Panchayats. The Committee would like that the recommendations of the Task Force should be circulated to the State Governments for their consideration and implementation.

14. 3.21 The Committee find that only a few State Legislatures have made adequate provision in their laws for the fiscal duties and rights of the Panchayats at different levels. No endeavour appears to have been made in this regard in other States. The Committee, therefore, recommend that the Union Government should identify a suitable

		expert body, to prepare model recommendations in this regard for the consideration of the State Finance Commissions and State Legislatures/Governments.
15.	3.22	The Committee further find that although article 243H(a) provides for Panchayats to "appropriate" into their own funds the proceeds of taxes, etc. collected by them, few States appear to have encouraged this useful mechanism for Panchayats to raise their own resources. The Committee recommend that the Government should make the earnest effort to persuade the State Legislatures to consider which of the taxes etc. assigned to the Panchayats might be left to be appropriated by the Panchayats and request State Governments to prepare appropriate legislation in this regard. The Committee further recommend that such appropriation should be encouraged to the maximum extent possible.
16.	3.30	The Committee observe as under:- (i) In many cases, time limit has not been fixed for the submission of reports by the State Finance Commissions; (iii) In some cases, there has been delay in the constitution of State Finance Commissions and in the submission of their recommendations to State Legislatures.
17.	3.31	The Committee further note that as could be seen from the status of the recommendations of various State Finance Commissions set up by the State Governments, most of the recommendations have been accepted by the respective State Governments. They also note the observations made by the Task Force according to which the implementation of the recommendations made by the Finance Commissions is the major constraint. Even after coming of the second generation State Finance Commissions into existence in many States, the Committee are unhappy to note that the pace of implementation of the recommendations made by the State Finance Commissions is very slow as pointed out by the Task Force. In view of this, they endorse the suggestions made by the Task Force that the State Governments should take

		expeditious measures to ensure that all recommendations of the respective State Finance Commissions, which are broadly agreed to, are implemented through relevant administrative, legislative and financial measures within a given time limit. The Committee would like that the Union Government should further pursue with the respective State Governments in this regard.
18.	3.34	The Committee find that the Tenth and Eleventh Central Finance Commissions have made some adhoc provisions for the Panchayati Raj Institutions for the period 1996-2000 and 2000-2005 respectively. The Committee note that the Tenth Finance Commission for want of SFC Reports had to resort to an adhoc provision of Rs.4381 crore. The Committee were informed that for the utilisation of the specific outlay, certain directives were also given to the State Governments. The Committee would like to know the guidelines drawn by the States in this regard and also whether the local bodies made suitable matching contributions by raising resources. They further note that a review and monitoring mechanism has been suggested by the Eleventh Finance Commission. The Committee stress that whatever funds have been allotted by the Tenth and Eleventh Finance Commissions to the local bodies should be utilised for the specified purposes. To ensure this, the Central Ministry has to monitor the implementation of directives of Tenth and Eleventh Finance Commissions. The Committee would like to be apprised of the details of the funds allotted to each of the States and the expenditure made till date categorically on maintenance of civic services i.e. primary education, primary health care, etc. The Committee note that the EFC asked the States to enhance the Consolidated Funds of the States for supplementing the resources of Panchayats. The Committee would like to know from the Government about the steps taken in this regard by State Governments. Besides, they would like to recommend that the Union Government in consultation with the State Governments should carefully review and monitor on an ongoing basis the implementation of the directives of the Tenth

and Eleventh Finance Commissions with a view to prepare the terms of reference for the Twelfth Finance Commission. The Committee would like to know the steps taken by the Central Monitoring Committee in this regard.

19. 3.39 The Committee have repeatedly been recommending in their reports to implement all the Centrally sponsored schemes by Panchayats. They have also been recommending for transfer of outlay directly to the Panchayats at appropriate level. They are unhappy to note that inspite of their repeated recommendation only one scheme i.e. Sampoorna Grameen Rozgar Yojana (SGRY), which is a combination of EAS and JGSY, is being implemented by the Panchayats. They are equally disturbed to note that during 2000-2001 less than 25% of the outlay earmarked for Centrally Sponsored Schemes was transferred to DRDA/ Zila Parishad. In this scenario, the Committee feel that not only the States, the Union Ministry is also not serious in implementing Part IX of the Constitution. They, therefore, strongly recommend that as per the Constitutional mandate Central Government should release all funds for Centrally Sponsored Schemes falling within the ambit of the Eleventh Schedule directly to the Panchayats at the appropriate level as has been done in the recently restructured scheme SGRY.

20. 3.40 The Committee note that the Task Force has given valuable suggestions for convergence of a plethora of Central and State level schemes to avoid complications and duplication. The Committee have also been repeatedly drawing the attention of the Government in this regard in their Reports. They strongly recommend that earnest and immediate action should be taken in this regard.

21. 3.41 The Committee further find that the Task Force has recommended that all the Central as well as State level schemes should be merged with some broader guidelines at the district level and converted into untied grants under one head. The Committee endorse the said recommendation of the Task Force with the hope that money earmarked for

		development purpose would not be diverted for other purposes like ways and means advances for the disbursement of salary of State Government officials etc.
22.	3.42	The Committee have dealt with DRDA Administration in a separate Chapter in the Report. However, in the context of Centrally Sponsored Schemes/Programmes, they would like to recommend strongly that the Government should ensure that the outlay for all the Centrally Sponsored Schemes is released directly to the Panchayats at the appropriate level and not through DRDAs.
23.	3.43	The Committee recommend that in hilly areas, in view of the limited working season, the funds for different Centrally Sponsored Schemes/Programmes should be released in one instalment rather than several instalments.
24.	3.48	While recommending for release of funds directly to Panchayats the Committee are deeply concerned over the position of audit of Panchayat accounts in various States. They are surprised to note the findings of a study conducted by the Department of Rural Development in the States of Kerala, Tamil Nadu, Tripura, Madhya Pradesh and Uttar Pradesh according to which the audit of accounts of various Panchayats in the said States was either not conducted or was pending. The Committee feel that the present procedure for auditing the accounts of Panchayats is serving little purpose because the sheer volume of work is resulting in inordinate delay in audit and action taken thereon. The delay fuels corruption and malfeasance. As suggested by the Eleventh Finance Commission and endorsed by the Task Force, the responsibility of audit of the three tiers of Panchayats should be entrusted to the Comptroller and Auditor General of India after consultation with the State Governments for effective audit to deter corruption and malpractices.

25. 4.14 The Committee find that as per the Constitutional provisions, the powers and functions of Gram Sabha have been left to the discretion of the State Legislatures. They note that the Panchayat (Extension to the Scheduled Areas) Act, 1996, passed by Parliament in pursuance of article 243M4 (b) sets out the functions of Gram Sabhas in an exemplary manner. The Committee, therefore, recommend that these provisions be taken as a model and circulated to State Governments for adoption so as to empower Gram Sabha effectively in areas other than the Scheduled Areas.

26. 4.15 While going through the position of quorum in different States, the Committee find that there is no uniformity in this regard. They also note that all the State Acts or Rules that prescribe a quorum require no quorum when the Gram Sabha is reconvened. The Committee feel that this provision is an easy tool in the hands of village sarpanch and powerful local leaders to take decisions according to their desires. The Committee are of the view that without quorum the representative character of Gram Sabha is not pronounced and hence quorum is absolutely necessary even if the meeting is reconvened. The Committee note that Gram Sabha is a forum where every adult of the village is entitled to come and express his grievances and his desire for development of education and other related aspects. Besides, this is the best forum for social audit. In view of the importance of Gram Sabha meetings, the Government should consider to make a provision to the effect that even in adjourned meetings as and when held, the quorum is insisted upon. Further if for the third time, there is no quorum, the development fund of the village should be stalled for a limited period of time. They think that such a provision would create a community stake in holding meetings of the Gram Sabha. To ensure proper participation in Gram Sabha, the date and time of meeting of Gram Sabha should be settled well in advance and given publicity and all concerned should be asked to attend the meeting. The Agenda of Gram Sabha should also be given adequate publicity so that the common people could put forward their suggestions for consideration of Gram Sabha from time to time. Besides, the Government should find out ways and means to provide financial incentives in the form of allowance for those citizens who cannot attend the Gram Sabha meetings due to distance or health reasons by providing arrangements for transport etc. The Committee also feel that the decisions taken at the meeting of Gram

Sabha should be well publicised so that the people at large could know about the measures contemplated and action taken. Without peoples' participation economic planning cannot be effective and this is a must.

27. 4.16 The Committee have dealt with role of women in Panchayati Raj Institutions separately in a subsequent Chapter. However, they would like to stress here that in view of the crucial importance of adequate women participation in meetings of the Gram Sabha, a sub quorum of women attendance be built into the required quorum. It should also be ensured that the meetings of the Gram Sabha are conducted at the appropriate time so that women feel comfortable in attending the meetings. In order to ensure that gender concerns and preferences are fully reflected in the proceedings of the Gram Sabha, the meetings of the Gram Sabha should be preceded by meetings of the Mahila Sabha so that women interlocutors authorised to do so by the Mahila Sabha effectively participate in Gram Sabha meetings.

28. 4.17 The Committee further note that it has been resolved in the Conference of the State Ministers of Rural Development and Panchayati Raj held in Delhi on 13th May, 1998 that the meetings of the Gram Sabha should be convened on single pre-determined days at every quarter. They find that pursuant to this resolution, some of the States are holding Gram Sabha meetings four times a year. But in most of the States the meetings are held twice a year. They would like that the defaulting States should be requested to adhere to the minimum four sittings in a year as resolved in the said Conference. The Committee also feel that the meetings of the Gram Sabha should not be held for the sake of counting numbers. There should be effective agenda for the consideration of Gram Sabha meetings. Besides, as repeatedly been recommended by them in their respective reports, the beneficiaries of various welfare schemes should be identified by the Gram Sabha. The concerned State officials and officials of the banks etc. concerned with the Central/State sector welfare schemes should invariably be required to attend the said meetings to make the Gram Sabha meetings really effective. They also feel that if the meaningful agenda is considered in Gram Sabha meetings, it will encourage the members of the Gram Sabha to attend the meetings invariably.

29.	4.18	The Committee note that Task Force has made very valuable observations regarding social audit by Gram Sabha. They feel that there is no denying the fact that if the people are enlightened, the meetings of the Gram Sabha could be a forum to curb corruption and misutilisation of funds at the Gram Panchayat level. They, therefore, would like that the States should legally empower the Gram Sabhas for social audit.
30.	4.19	The Committee note that the Executive Officer i.e. Panchayat Secretary has a crucial role to play in the Gram Sabha meetings. However, they find that sometimes Panchayat Secretary exercises overwhelming powers and is controlling everything. The Committee feel that this is not in the spirit of the Constitution and should be discouraged.
31.	5.3	The Committee recommend that the courts be approached to clarify the jurisprudence in regard to whether the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) has to be implemented as such in the Fifth Scheduled Areas, as per provisions of the Constitution or whether PESA is supposed to only be a legitimate guideline for the State Legislatures and further the jurisprudence needs also to be clarified as to the applicability of PESA in the two newly constituted States, viz. Chattishgarh, Jharkhand which fall entirely within the Fifth Schedule Areas of the erstwhile States of Madhya Pradesh and Bihar respectively.
32.	5.4	The Committee find that although the concerned States excluding Jharkhand have amended their State Acts/Laws in conformity with the PESA, these amended Acts/Laws are yet to be implemented in letter and spirit. They feel that as the said Acts/Laws have been passed pursuant to Constitutional provisions, the failure to implement the Act in Fifth Schedule Areas amounts to non-compliance with the Constitutional provisions. They take serious note of this and urge the Government to take all the necessary steps in this regard.
33.	5.5	The Committee find that as per the information furnished by the Department, Jharkhand has yet to amend State Act/Law in conformity with the provisions of Panchayats (Extension to Scheduled Areas) Act, 1996. They would like to be apprised of the present position in this regard.

34.	6.13	The Committee find that not only pre-Part IX parallel bodies like DRDAs, joint forest management and water user groups are working, but certain post-amendment parallel bodies like Expert Committee in Kerala and Janmabhoomi in Andhra Pradesh are also there. They also find that although the Department agrees that these parallel bodies are undermining the decision making powers of Gram Sabha and Gram Panchayat in respective States, nothing concrete has been done to remedy the situation. The Committee have been recommending repeatedly that the practice of creating parallel bodies and parallel programmes be discouraged. But, nothing concrete seems to have been done in this regard. The Committee also note that the Task Force in their Report have stressed for creation of Standing Committees in the Panchayats at each level for specific and important subjects. Besides, they have been recommending for an inter tier Standing Committee on Monitoring and Supervision. The Committee, therefore strongly recommend that all the parallel bodies and programmes working in various States should be brought under the overall monitoring and supervision of Panchayats at the appropriate level.
35.	6.14	As emphasised by the Task Force, the Committee stress the importance of establishing Standing and Adhoc Committees of the Panchayat at each level. Corruption in the Panchyat at all levels has become rampant in most States, because chairpersons are not responsible to the Committees of the Panchayats or to the general body of the Panchayats or to the Gram Sabha. In association with the bureaucracy, chairpersons have tended to usurp the functions, which properly belong to the Panchayats as a whole. The Committee, therefore, stress the crucial importance of establishing Standing and Adhoc Committees of the Panchayats at each level so that proposals are processed by such Committees and then brought before the general body of the Panchayat for approval before, during and after the execution of works. Utilisation certificates should be issued by the Panchayats as a whole and, at the village level, after securing the endorsement of the Gram Sabhas. It is only if this is done that the Gram Sabhas will have functional relevance, the elected members of the Panchayats will have real and meaningful work to do, and the chairpersons will operate as chairpersons-in-council, thus reducing, if not always

completely eliminating, the scope for nepotism and corruption.

36. 6.15 The Committee have been repeatedly recommending for the merger of DRDA with Zila Parishad. Inspite of that, they find that the approach of the Union Ministry is to strengthen the DRDAs. They also find that only five States i.e. Chhattisgarh, Kerala, Madhya Pradesh, West Bengal and Karnataka could achieve the objective of merging DRDA with District Panchayat. In all other States, DRDA is functioning separately, and as informed by the Ministry, at present there are 571 DRDAs/DRDA cells. They also note from information provided by the Department that there is no provision in the State Panchayati Raj Acts to ensure coordination between DRDAs and the three tiers of the Panchayats. In this scenario, the Committee disapprove of the way the Union Government are encouraging the role of DRDA administration. They find that with the enactment of Part IX, pre Part IX arrangement of DRDA has become obsolescent and needs to be ended, especially as the DRDA is inimical to the fundamental objective of Part IX which is the establishment of institutions of self-government. The Committee strongly recommend that in the interests of effective Panchayati Raj, as envisaged in the Constitution, DRDAs be disbanded and merged with District Panchayats, with the Chairperson of District Panchayat as Chairperson of the merged DRDA. Moreover, *pari passu* with the clarification of which functions, functionaries and finances are to be devolved to which tier of the Panchayati Raj system, Intermediate and Village level bodies with duties parallel to those of the existing DRDAs would need to be set up at these levels, so that State and Central finances are channeled to the appropriate tier and not necessarily concentrated in the merged DRDA at the District Panchayat level.

37. 6.18 The Committee find that as per the Government's view, the role of NGOs is in functional conflict with the structures envisaged under Part IX. Although the Committee agree that in spirit, all the welfare schemes should be implemented through Panchayati Raj Institutions, they do not underestimate the role played by NGOs in effective implementation of the different schemes. They, therefore, recommend that some mechanism should be evolved for getting assistance from NGOs by the Panchayats specifically in technical matters like preparation of plans

etc. The Committee are of the view that involvement of NGOs in the implementation of various schemes for economic development/social justice can be resorted to under strict supervision and control of PRIs. Technical expertise, infrastructure and resources could be of great help in certain cases if Voluntary Agencies/NGOs are involved but these agencies in no case should undermine the authority of PRIs, nor preclude the evolution of PRIs as self governing institutions. The Committee would also expect the Union Government to think over this aspect seriously and issue necessary guidelines in this regard. Schemes which need technical expertise should be clearly demarcated but the Panchayat should have the upper hand in the involvement of NGOs /Voluntary Agencies wherever necessary. The Committee believe that the most effective form of NGOs involvement would be in generally arousing awareness of the rights and duties of the Panchayats as well as in mobilising the mass participation in meetings of the Gram Sabha.

38. 7.3 The Committee find that although the Government agree to the crucial role to be played by MPs and MLAs in the process of decentralisation of powers in pursuance of Part IX of the Constitution, serious attention is not being paid at the State level to involve MPs and MLAs in different welfare schemes. The Committee have time and again been stressing for the specific role of MPs and MLAs in monitoring of different Centrally Sponsored Schemes, yet they find that the meetings of DRDAs are generally being held at the time when the MPs are not available. In this scenario, they recommend that a serious thought should be given to involve MPs and MLAs at the higher levels of Panchayats i.e., Intermediate and District level Panchayats so that they can play an effective role in monitoring the activities being undertaken by these Institutions.

39. 8.4 The Committee note that enlightenment of rural masses about the different welfare, State and Centrally Sponsored Schemes as well as the importance of Gram Sabha can play a very crucial role in monitoring all the different programmes for which crores of rupees are being allocated annually by the Central Government as well as the State Governments. How to make the public aware about all this is perhaps the biggest challenge. They also appreciate the fact that the print media in rural areas cannot be useful

where there is a low level of literacy among rural people. They feel that important mass awareness building programmes through distance education training schemes such as have been prepared by IGNOU and the rest need to be organised at different levels to communicate to the people the importance of Panchayats. Besides, radio and Doordarshan can also play a crucial role in this regard. As has been given in detail in Chapter related to Gram Sabha, the meetings of Gram Sabha, if conducted properly can itself be a major forum to make the people aware about their responsibilities and duties towards society and making them aware about the different welfare schemes being run by the Central as well as State Governments. Besides, transparency in the implementation of the schemes by way of making people aware like putting the Bill Boards at the sites of different schemes indicating the cost, the agency which has funded the project, the date of starting and the likely date of completion etc. can be the best method to involve the public/to make the public aware about the functioning of the Panchayats.

40. 9.10 The Committee note as accepted by the Government that the definitions as given in article 243 are open to varied interpretations. Too much flexibility in interpretation may defeat the very purpose of definition. As such the Committee would like the Government to ponder over the definitions and make them as clear as possible so that there is no confusion at any level, particularly concerning Gram Sabha and Gram Panchayat, the definition of which should be more pronounced. The Committee during interaction with the Panchayati Raj Institutions and experts were informed that there is no rationalisation of population of Gram Sabha and Gram Panchayat. They note that sometimes the size of Village Panchayat and Gram Sabha is so big that the purpose of participatory democracy of the kind that is envisaged for a Gram Sabha is not possible as has been admitted by the Department in its written note. The Committee would therefore, like to recommend that the size of a Village Panchayat and Gram Sabha be fixed at a level that would facilitate the democratic participation by all voters. Besides, where for any reason the size of the Gram Sabha appears too large for effective democratic participation, possibilities for establishment of subsidiary Sabhas be explored at the ward/booth level.

41.	9.11	The Committee further find that the Government of Kerala have suggested that the Constitution of India should have enabling provision for the States to allow them to have unchanged boundaries for wards for long period. They also note that the matter has been referred to the Central Ministry of Law, Justice and Company affairs to seek their opinion in this regard. The Committee would like to be apprised of the present position on the said suggestion of the Kerala Government.
42.	10.9	The Committee find that there are a number of States where District Planning Committees have not been constituted so far in accordance with the provisions of article 243ZD. They take serious view of it and feel that this amounts to serious infringement of key Constitutional requirements. They urge the Union Government to ensure that in all States/Union territories, the District Planning Committees are constituted within a set time frame.
43.	10.10	The Committee feel that planning is required to be undertaken at every tier of the Panchayati Raj System, not at the level of the District Planning Committee (DPC) alone. The very wording of article 243ZD, dealing with the District Planning Committee, says the DPC is to consolidate the plans prepared by the Panchayats. They, therefore, recommend that the annual plans and Five Year Plans should be prepared by each of the three tiers of Panchyati Raj Institutions as well as the Municipalities and, thereafter, be consolidated at the District level by the District Planning Committees.
44.	10.11	The Committee further note that different tiers of Panchayat need technical assistance for preparation of plans. In this regard, they recommend that local NGOs, educational institutions, especially college faculties, legal professionals can play a crucial role in facilitating scientific planning at all these levels of the Panchayati Raj system. Besides, the services of retired bureaucrats, technocrats could also be utilised by the different tiers of Panchayats in this regard. How and when the services of the aforesaid professionals could be utilised for planning should be examined by the Union Government, in consultation with States and the modalities of their functioning may be worked out.

45.	10.12	The Committee further note that in some of the States, District Planning Committees are being chaired by Ministers in the State Government. They also find that as per article 243ZD (2)*(d)*, the matter regarding the manner in which the Chairpersons of DPC shall be chosen has been left to the respective State Governments. They note that a State Minister chairing the DPC is against the spirit of the Constitution (Seventy-third and Seventy-fourth) Amendments. In view of this, they would like that the respective State Governments where the practice of Minister chairing District Planning Committees is prevalent should be advised in this regard. Moreover, Parallel/Planning Bodies to the District Planning Committees, as set out under article 243ZD, should not be established.
46.	10.13	The Committee further note that the Ministry of Urban Development and Poverty Alleviation had circulated the draft guidelines to the States/Union territories giving some advice about the constitution of District Planning Committees. The Committee would like that the Ministry of Urban Development and Poverty Alleviation pursue further with the State Governments so that the necessary suggestions given in the said guidelines are scrupulously followed by the State/Union territory Governments.
47.	11.5	The Committee feel that reservations for women has opened the door to revolutionary changes of a political, social and cultural nature. India can truly be proud of being the first and only country in the world to have empowered through free and fair elections, more than one million women who are participating in the Panchayats. The Committee feel that there is still some way to go in changing the apparent empowerment of women into a real and genuine empowerment. To this end, the Committee recommend that: (i) Reservation for women should be extended to at least two terms. (ii) No-confidence motions against women Chairpersons should not be allowed to be tabled more than once in two years, no oftener, so as to end the widespread harassment of women Chairpersons through threats of No-confidence motions, which the Committee find, are more in vogue with respect to women than men Chairpersons.

(iii) If a woman Chairperson or a member is removed for any reason whatsoever, she must be replaced by another woman of the same category, not by a man, whether in full or acting charge.

48. 12.7 The Committee are extremely concerned to learn that arrangements for the training of elected members of the Panchayats at different levels, and of the administrative and technical staff attached to the Panchayats, fall at present far short of requirements. The Committee recommend an exponential increase in the quantum of funds made available for such training as well as deep consideration to the overall training requirements of both elected members and Panchayat staff. Moreover, there is a special need to concentrate on training of the weaker sections and women. It has been brought to the notice of the Committee that the Indira Gandhi National Open University has evolved a multi-media model for extending training on a mass scale through the use of both traditional and innovative forms of mass communication. The Committee recommend this multi-media model to the attention of the authorities concerned. The Committee further urge that Doordarshan and AIR should take up the challenge of effectively training elected members and staff, especially representatives of the weaker sections and women, in the art of Panchayati Raj. The NGOs have a very vital role to play in regard to training and should receive financial assistance from CAPART to run training programmes.

49. 12.8 The Committee find that sometimes rural women are hesitant to attend training programmes along with the men. They, therefore, recommend that separate training programmes should be arranged for such women participants. Besides, special care should be taken for imparting training to SC/ST and Backward Classes.